

**Enrolled**  
**Senate Bill 268**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Judicial Department)

CHAPTER .....

AN ACT

Relating to judicial review of orders of the Workers' Compensation Board; creating new provisions; and amending ORS 656.236 and 656.298.

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

**SECTION 1.** ORS 656.298 is amended to read:

656.298. (1) Within the time limit specified in ORS 656.295, any party affected by an order of the Workers' Compensation Board, including orders issued pursuant to ORS 656.278, may request judicial review of the order by the Court of Appeals.

(2) The name and style of the proceedings shall be "In the Matter of the Compensation of (name of the worker)."

(3) The judicial review shall be commenced by serving a copy of a petition for judicial review on the board and on the parties who appeared in the review proceedings, and by filing with the clerk of the Court of Appeals the original petition for judicial review with proof of service indorsed thereon. The petition for judicial review shall state:

(a) The name of the person *[appealing]* **requesting judicial review** and of all other parties.

(b) The date **of the filing of** the order *[appealed from was filed]* **for which judicial review is requested.**

(c) A statement that the *[order is being appealed to]* **person is requesting judicial review by** the Court of Appeals.

(d) A brief statement of the relief requested and the reasons the relief should be granted.

(4) Within 10 days after service of a petition for judicial review on a party under subsection (3) of this section, such party may also request judicial review in the same manner.

(5) The following requirements of subsection (3) of this section are jurisdictional and may not be waived or extended:

(a) Service of the petition for judicial review on all parties identified in the petition for judicial review as adverse parties or, if the petition for judicial review does not identify adverse parties, on all parties who have appeared in the proceeding before the board, **within the time limits imposed by ORS 656.295 (8) and by subsection (4) of this section.**

(b) Filing of the original petition for judicial review with the Court of Appeals within the time limits imposed by ORS 656.295 (8) and by subsection (4) of this section.

(6) Within 30 days after service of a petition for judicial review on the board, the board shall forward to the clerk of the Court of Appeals:

- (a) The original copy of the transcribed record prepared under ORS 656.295.
  - (b) All exhibits.
  - (c) Copies of all decisions and orders entered during the hearing and review proceedings.
- (7) The review by the Court of Appeals shall be on the entire record forwarded by the board. Review shall be as provided in ORS 183.482 (7) and (8).

(8) Review under this section shall be given precedence on the docket over all other cases, except those given equal status by statute.

**(9)(a) If the parties to a petition for judicial review of an order of the board settle all or part of the matter during the pendency of the petition for judicial review, the board has jurisdiction to enter any orders that may be necessary to implement the settlement.**

**(b) If the settlement disposes of all issues during the pendency of the petition for judicial review, the appellate court may dismiss the petition for judicial review.**

**(c) If the settlement disposes of part of the issues during the pendency of the petition for judicial review, the appellate court may limit judicial review to the issues not disposed of by the settlement.**

**SECTION 2.** ORS 656.236 is amended to read:

656.236. (1)(a) The parties to a claim, by agreement, may make such disposition of any or all matters regarding a claim, except for medical services, as the parties consider reasonable, subject to such terms and conditions as the Workers' Compensation Board may prescribe. For the purposes of this section, "matters regarding a claim" includes the disposition of a beneficiary's independent claim for compensation under this chapter. Unless otherwise specified, a disposition resolves all matters and all rights to compensation, attorney fees and penalties potentially arising out of claims, except medical services, regardless of the conditions stated in the agreement. Any such disposition shall be filed for approval with the board. If the worker is not represented by an attorney, the worker may, at the worker's request, personally appear before the board. Submission of a disposition shall stay all other proceedings and payment obligations, except for medical services, on that claim. The disposition shall be approved in a final order unless:

(A) The board finds the proposed disposition is unreasonable as a matter of law;

(B) The board finds the proposed disposition is the result of an intentional misrepresentation of material fact; or

(C) Within 30 days of submitting the disposition for approval, the worker, the insurer or self-insured employer requests the board to disapprove the disposition.

(b) Notwithstanding paragraph (a)(C) of this subsection, a disposition may provide for waiver of the provisions of that subparagraph if the worker was represented by an attorney at the time the worker signed the disposition.

(2) Notwithstanding any other provision of this chapter, an order approving disposition of a claim pursuant to this section is not subject to review. However, an order disapproving a disposition is subject to review pursuant to ORS 656.298. The board shall file with the Department of Consumer and Business Services a copy of each disposition that the board approves. If the board does not approve a disposition the board shall enter an order setting aside the disposition.

(3) Unless the terms of the disposition expressly provide otherwise, no payments, except for medical services, pursuant to a disposition are payable until the board approves the disposition. [*The Court of Appeals or Supreme Court shall remand to the board cases in which proposed dispositions are submitted to the court for approval.*]

(4) If a worker is represented by an attorney in the negotiation of a disposition under this section, the insurer or self-insured employer shall pay to the attorney a fee prescribed by the board.

(5) Except as otherwise provided in this chapter, none of the cost of workers' compensation to employers under this chapter, or in the court review of any claim therefor, shall be charged to a subject worker.

(6) Any claim in which the parties enter into a disposition under this section shall not be eligible for reimbursement of expenditures authorized by law from the Workers' Benefit Fund without the prior approval of the Director of the Department of Consumer and Business Services.

(7) Insurers or self-insured employers who are parties to an approved claim disposition agreement under this section shall not be joined as parties in subsequent proceedings under this chapter to determine responsibility for payment for any matter for which disposition is made by the agreement. Insurers or self-insured employers may be joined as parties in subsequent proceedings under this chapter to determine responsibility for medical services for claim conditions for which disposition is made by an approved claim disposition agreement, but no order in any subsequent proceedings may alter the obligations of an insurer or self-insured employer set forth in an approved claims disposition agreement, except as those obligations concern medical services.

(8) No release by a worker or beneficiary of any rights under this chapter is valid, except pursuant to a claim disposition agreement under this section or a release pursuant to ORS 656.593.

(9) Notwithstanding ORS 656.005 (21), as used in this section, "party" does not include a non-complying employer.

**SECTION 3. (1) The amendments to ORS 656.298 (3) and (5) by section 1 of this 2007 Act apply to petitions for judicial review filed on or after the effective date of this 2007 Act.**

**(2) The provisions of ORS 656.298 (9) apply to petitions for judicial review pending with the appellate court on the effective date of this 2007 Act and to petitions for judicial review filed on or after the effective date of this 2007 Act.**

**Passed by Senate February 19, 2007**

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Secretary of Senate

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President of Senate

**Passed by House March 21, 2007**

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Speaker of House

**Received by Governor:**

.....M.,....., 2007

**Approved:**

.....M.,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2007

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Secretary of State