

# Senate Bill 240

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## SUMMARY

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

Requires Director of Department of Consumer and Business Services to adopt standards for rating permanent impairment for workers' compensation claims that are based on certain national standards in effect on effective date of Act.

## A BILL FOR AN ACT

1  
2 Relating to rating of permanent impairment in workers' compensation claims; creating new pro-  
3 visions; and amending ORS 656.726.

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

5 **SECTION 1.** ORS 656.726 is amended to read:

6 656.726. (1) The Workers' Compensation Board in its name and the Director of the Department  
7 of Consumer and Business Services in the director's name as director may sue and be sued, and each  
8 shall have a seal.

9 (2) The board hereby is charged with reviewing appealed orders of Administrative Law Judges  
10 in controversies concerning a claim arising under this chapter, exercising own motion jurisdiction  
11 under this chapter and providing such policy advice as the director may request, and providing such  
12 other review functions as may be prescribed by law. To that end any of its members or assistants  
13 authorized thereto by the members shall have power to:

14 (a) Hold sessions at any place within the state.

15 (b) Administer oaths.

16 (c) Issue and serve by the board's representatives, or by any sheriff, subpoenas for the attend-  
17 ance of witnesses and the production of papers, contracts, books, accounts, documents and testimony  
18 before any hearing under ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this  
19 chapter.

20 (d) Generally provide for the taking of testimony and for the recording of proceedings.

21 (3) The board chairperson is hereby charged with the administration of and responsibility for the  
22 Hearings Division.

23 (4) The director hereby is charged with duties of administration, regulation and enforcement of  
24 ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter. To that end the di-  
25 rector may:

26 (a) Make and declare all rules and issue orders which are reasonably required in the perform-  
27 ance of the director's duties. Unless otherwise specified by law, all reports, claims or other docu-  
28 ments shall be deemed timely provided to the director or board if mailed by regular mail or  
29 delivered within the time required by law. Notwithstanding any other provision of this chapter, the  
30 director may adopt rules to allow for the electronic transmission and filing of reports, claims or

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

1 other documents required to be filed under this chapter and to require the electronic transmission  
2 and filing of proof of coverage required under ORS 656.419, 656.423 and 656.427. Notwithstanding  
3 ORS 183.310 to 183.410, if a matter comes before the director that is not addressed by rule and the  
4 director finds that adoption of a rule to accommodate the matter would be inefficient, unreasonable  
5 or unnecessarily burdensome to the public, the director may resolve the matter by issuing an order,  
6 subject to review under ORS 656.704. Such order shall not have precedential effect as to any other  
7 situation.

8 (b) Hold sessions at any place within the state.

9 (c) Administer oaths.

10 (d) Issue and serve by representatives of the director, or by any sheriff, subpoenas for the at-  
11 tendance of witnesses and the production of papers, contracts, books, accounts, documents and tes-  
12 timony in any inquiry, investigation, proceeding or rulemaking hearing conducted by the director  
13 or the director's representatives. The director may require the attendance and testimony of em-  
14 ployers, their officers and representatives in any inquiry under this chapter, and the production by  
15 employers of books, records, papers and documents without the payment or tender of witness fees  
16 on account of such attendance.

17 (e) Generally provide for the taking of testimony and for the recording of such proceedings.

18 (f) Provide standards for the evaluation of disabilities. The following provisions apply to the  
19 standards:

20 (A) The criterion for evaluation of permanent impairment under ORS 656.214 is the loss of use  
21 or function of a body part or system due to the compensable industrial injury or occupational dis-  
22 ease. Permanent impairment is expressed as a percentage of the whole person. The impairment value  
23 may not exceed 100 percent of the whole person.

24 (B) Impairment is established by a preponderance of medical evidence based upon objective  
25 findings.

26 (C) The criterion for evaluation of work disability under ORS 656.214 is permanent impairment  
27 as modified by the factors of age, education and adaptability to perform a given job.

28 (D) When, upon reconsideration of a notice of closure pursuant to ORS 656.268, it is found that  
29 the worker's disability is not addressed by the standards adopted pursuant to this paragraph,  
30 notwithstanding ORS 656.268, the director shall, in the order on reconsideration, determine the ex-  
31 tent of permanent disability that addresses the worker's impairment.

32 (E) Notwithstanding any other provision of this section, only impairment benefits shall be  
33 awarded under ORS 656.214 if the worker has been released to regular work by the attending phy-  
34 sician or nurse practitioner authorized to provide compensable medical services under ORS 656.245  
35 or has returned to regular work at the job held at the time of injury.

36 **(F) Standards for the rating of permanent impairment under ORS 656.214 shall be based**  
37 **upon the most recent edition of the American Medical Association's Guides to the Evaluation**  
38 **of Permanent Impairment available on the effective date of this 2013 Act.**

39 (g) Prescribe procedural rules for and conduct hearings, investigations and other proceedings  
40 pursuant to ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter regarding  
41 all matters other than those specifically allocated to the board or the Hearings Division.

42 (h) Participate fully in any proceeding before the Hearings Division, board or Court of Appeals  
43 in which the director determines that the proceeding involves a matter that affects or could affect  
44 the discharge of the director's duties of administration, regulation and enforcement of ORS 654.001  
45 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter.

1 (5) The board may make and declare all rules which are reasonably required in the performance  
2 of its duties, including but not limited to rules of practice and procedure in connection with hearing  
3 and review proceedings and exercising its authority under ORS 656.278. The board shall adopt  
4 standards governing the format and timing of the evidence. The standards shall be uniformly fol-  
5 lowed by all Administrative Law Judges and practitioners. The rules may provide for informal pre-  
6 hearing conferences in order to expedite claim adjudication, amicably dispose of controversies, if  
7 possible, narrow issues and simplify the method of proof at hearings. The rules shall specify who  
8 may appear with parties at prehearing conferences and hearings.

9 (6) The director and the board chairperson may incur such expenses as they respectively de-  
10 termine are reasonably necessary to perform their authorized functions.

11 (7) The director, the board chairperson and the State Accident Insurance Fund Corporation shall  
12 have the right, not subject to review, to contract for the exchange of, or payment for, such services  
13 between them as will reduce the overall cost of administering this chapter.

14 (8) The director shall have lien and enforcement powers regarding assessments to be paid by  
15 subject employers in the same manner and to the same extent as is provided for lien and enforce-  
16 ment of collection of premiums and assessments by the corporation under ORS 656.552 to 656.566.

17 (9) The director shall have the same powers regarding inspection of books, records and payrolls  
18 of employers as are granted the corporation under ORS 656.758. The director may disclose infor-  
19 mation obtained from such inspections to the Director of the Department of Revenue to the extent  
20 the Director of the Department of Revenue requires such information to determine that a person  
21 complies with the revenue and tax laws of this state and to the Director of the Employment De-  
22 partment to the extent the Director of the Employment Department requires such information to  
23 determine that a person complies with ORS chapter 657.

24 (10) The director shall collect hours-worked data information in addition to total payroll for  
25 workers engaged in various jobs in the construction industry classifications described in the job  
26 classification portion of the Workers' Compensation and Employers Liability Manual and the Oregon  
27 Special Rules Section published by the National Council on Compensation Insurance. The informa-  
28 tion shall be collected in the form and format necessary for the National Council on Compensation  
29 Insurance to analyze premium equity.

30 **SECTION 2. The amendments to ORS 656.726 by section 1 of this 2013 Act apply to inju-**  
31 **ries occurring on or after January 1, 2014.**

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