

D R A F T

SUMMARY

Requires Department of Consumer and Business Services to maintain balance of Workers' Benefit Fund in amount equivalent to 12 months of projected expenditures from fund and to devise and report to Workers' Compensation Management-Labor Advisory Committee plan to increase balance to required amount if department determines that balance will fall below required amount.

Requires Workers' Compensation Management-Labor Advisory Committee to review plan department devises to increase balance of Workers' Benefit Fund to required amount.

A BILL FOR AN ACT

1
2 Relating to the balance required in the Workers' Benefit Fund; amending
3 ORS 656.506 and 656.790.

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

5 **SECTION 1.** ORS 656.506 is amended to read:

6 656.506. (1) As used in this section:

7 (a) "Employee" means a subject worker as defined in ORS 656.005 (28).

8 (b) "Employer" means a subject employer as defined in ORS 656.005 (27).

9 (2) Every employer shall retain from the moneys earned by all employees
10 an amount determined by the Director of the Department of Consumer and
11 Business Services for each hour or part of an hour the employee is employed
12 and pay the money retained in the manner and at such intervals as the di-
13 rector [*of the Department of Consumer and Business Services*] shall [*direct*]
14 **specify.**

15 (3) In addition to all moneys retained under subsection (2) of this section,
16 the director shall assess each employer an amount equal to that assessed

1 pursuant to subsection (2) of this section. The assessment [*shall*] **must** be
2 paid in such manner and at such intervals as the director may [*direct*]
3 **specify**.

4 (4) **The Department of Consumer and Business services shall deposit**
5 moneys collected pursuant to subsections (2) and (3) of this section, and any
6 accrued cash balances, [*shall be deposited by the Department of Consumer and*
7 *Business Services*] into the Workers' Benefit Fund. Subject to the limitations
8 in subsections (2) and (3) of this section, the amount of the hourly assess-
9 ments provided in subsections (2) and (3) of this section annually may be
10 adjusted to meet the needs of the Workers' Benefit Fund for the expenditures
11 of the department in carrying out [*its*] **the department's** functions and du-
12 ties pursuant to subsection (7) of this section and ORS 656.445, 656.622,
13 656.625, 656.628 and 656.630. Factors to be considered in making such ad-
14 justment of the assessments [*shall*] **must** include, but not be limited to, the
15 cash balance as determined by the director and estimated expenditures and
16 revenues of the Workers' Benefit Fund.

17 (5) [*It is the intent of*] The Legislative Assembly **intends** that the de-
18 partment set rates for the collection of assessments pursuant to subsections
19 (2) and (3) of this section in a manner so that at the end of the period for
20 which the rates [*shall be*] **are** effective, the [*cash*] balance [*shall be*] **of the**
21 **Workers' Benefit Fund is** an amount of not less than [*six*] **12** months of
22 projected expenditures from the [*Workers' Benefit*] fund in regard to [*its*] **the**
23 **department's** functions and duties under subsection (7) of this section and
24 ORS 656.445, 656.622, 656.625, 656.628 and 656.630, in a manner that minimizes
25 the volatility of the rates assessed. **If the department determines that the**
26 **balance of the fund will fall below the balance required under this**
27 **subsection, the department shall devise and report to the Workers'**
28 **Compensation Management-Labor Advisory Committee a plan to in-**
29 **crease the balance to the required amount.** The department may set the
30 assessment rate at a higher level if the department determines that a higher
31 rate is necessary to avoid unintentional program or benefit reductions in the

1 time period immediately following the period for which the rate is being set.

2 (6) Every employer required to pay the assessments referred to in this
3 section shall make and file a report of employee hours worked and amounts
4 due under this section upon a combined report form prescribed by the De-
5 partment of Revenue. The report [*shall*] **must** be filed with the Department
6 of Revenue:

7 (a) At the times and in the manner prescribed in ORS 316.168 and 316.171;
8 or

9 (b) Annually as required or allowed pursuant to ORS 316.197 or 657.571.

10 (7) There is established a Retroactive Program for the purpose of provid-
11 ing increased benefits to claimants or beneficiaries eligible to receive com-
12 pensation under the benefit schedules of ORS 656.204, 656.206, 656.208 and
13 656.210 [*which*] **that** are lower than currently being paid for like injuries.
14 However, benefits payable under ORS 656.210 [*shall*] **may** not be increased
15 by the Retroactive Program for claimants whose injury occurred on or after
16 April 1, 1974. Notwithstanding the formulas for computing benefits provided
17 in ORS 656.204, 656.206, 656.208 and 656.210, the increased benefits payable
18 under this subsection [*shall*] **must** be in such amount as the director con-
19 siders appropriate. The director annually shall compute the amount which
20 may be available during the succeeding year for payment of such increased
21 benefits and determine the level of benefits to be paid during such year. If,
22 during such year, it is determined by the director that there are insufficient
23 funds to increase benefits to the level fixed by the director, the director may
24 reduce the level of benefits payable under this subsection. The increase in
25 benefits to workers [*shall be*] **is** payable in the first instance by the insurer
26 or self-insured employer subject to reimbursement from the Workers' Benefit
27 Fund by the director. If the insurer is a member of the Oregon Insurance
28 Guaranty Association and becomes insolvent and the Oregon Insurance
29 Guaranty Association assumes the insurer's obligations to pay covered
30 claims of subject workers, including Retroactive Program benefits, [*such*] **the**
31 benefits [*shall be*] **are** payable in the first instance by the Oregon Insurance

1 Guaranty Association, subject to reimbursement from the Workers' Benefit
2 Fund by the director.

3 **SECTION 2.** ORS 656.790 is amended to read:

4 656.790. (1) The Governor shall appoint a Workers' Compensation
5 Management-Labor Advisory Committee composed of 10 appointed members.
6 Five members from organized labor shall represent subject workers and five
7 members shall represent subject employers. In addition to the appointed
8 members, the Director of the Department of Consumer and Business Services
9 shall serve ex officio as a member of the committee. The appointment of
10 members of the committee is subject to confirmation by the Senate in the
11 manner prescribed in ORS 171.562 and 171.565.

12 (2) The director may recommend areas of the law which the director de-
13 sires to have studied or the committee may study such aspects of the law as
14 the committee shall determine require their consideration. The committee
15 shall biennially review the standards for evaluation of permanent disability
16 adopted under ORS 656.726 and shall recommend to the director factors to
17 be included or such other modification of application of the standards as the
18 committee considers appropriate. The committee shall biennially review and
19 make recommendations about permanent partial disability benefits. The
20 committee shall advise the director regarding any proposed changes in the
21 operation of programs funded by the Workers' Benefit Fund **and shall re-**
22 **view any plan the Department of Consumer and Business Services de-**
23 **vises to increase the balance of the fund to meet the requirement set**
24 **forth in ORS 656.506 (5).** The committee shall report *[its]* **the committee's**
25 findings to the director for such action as the director deems appropriate.

26 (3) The committee shall report to the Legislative Assembly such findings
27 and recommendations as the committee considers appropriate, including a
28 report on the following matters:

29 (a) Decisions of the Supreme Court and Court of Appeals that have sig-
30 nificant impact on the workers' compensation system.

31 (b) Adequacy of workers' compensation benefits.

1 (c) Medical and legal system costs.

2 (d) Adequacy of assessments for reserve programs and administrative
3 costs.

4 (e) The operation of programs funded by the Workers' Benefit Fund.

5 (4) The members of the committee [*shall be*] **are** appointed for a term of
6 three years and shall serve without compensation, but [*shall be*] **are** entitled
7 to travel expenses. The committee may hire, subject to approval of the di-
8 rector, such experts as [*it*] **the committee** may require to discharge [*its*] **the**
9 **committee's** duties. All expenses of the committee [*shall*] **must** be paid out
10 of the Consumer and Business Services Fund.

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