

Enrolled
House Bill 2788

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Workers' Compensation Management-Labor Advisory Committee)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 656.506 is amended to read:

656.506. (1) As used in this section:

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

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

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

(3) In addition to all moneys retained under subsection (2) of this section, the director shall assess each employer an amount equal to that assessed pursuant to subsection (2) of this section. The assessment *[shall]* **must** be paid in such manner and at such intervals as the director may *[direct]* **specify**.

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

(5) *[It is the intent of]* The Legislative Assembly **intends** that the department set rates for the collection of assessments pursuant to subsections (2) and (3) of this section in a manner so that at the end of the period for which the rates *[shall be]* **are** effective, the *[cash]* balance *[shall be]* **of the Workers' Benefit Fund is** an amount of not less than *[six]* **12** months of projected expenditures from the *[Workers' Benefit]* fund in regard to *[its]* **the department's** functions and duties under subsection (7) of this section and ORS 656.445, 656.622, 656.625, 656.628 and 656.630, in a manner that minimizes the volatility of the rates assessed. **If the department determines that the balance of the fund will fall below the balance required under this subsection, the department shall devise and report to the Workers' Compensation Management-Labor Advisory Committee a**

plan to increase the balance to the required amount. The department may set the assessment rate at a higher level if the department determines that a higher rate is necessary to avoid unintentional program or benefit reductions in the time period immediately following the period for which the rate is being set.

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

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

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

(7) There is established a Retroactive Program for the purpose of providing increased benefits to claimants or beneficiaries eligible to receive compensation under the benefit schedules of ORS 656.204, 656.206, 656.208 and 656.210 *[which]* **that** are lower than currently being paid for like injuries. However, benefits payable under ORS 656.210 *[shall]* **may** not be increased by the Retroactive Program for claimants whose injury occurred on or after April 1, 1974. Notwithstanding the formulas for computing benefits provided in ORS 656.204, 656.206, 656.208 and 656.210, the increased benefits payable under this subsection *[shall]* **must** be in such amount as the director considers appropriate. The director annually shall compute the amount which may be available during the succeeding year for payment of such increased benefits and determine the level of benefits to be paid during such year. If, during such year, it is determined by the director that there are insufficient funds to increase benefits to the level fixed by the director, the director may reduce the level of benefits payable under this subsection. The increase in benefits to workers *[shall be]* **is** payable in the first instance by the insurer or self-insured employer subject to reimbursement from the Workers' Benefit Fund by the director. If the insurer is a member of the Oregon Insurance Guaranty Association and becomes insolvent and the Oregon Insurance Guaranty Association assumes the insurer's obligations to pay covered claims of subject workers, including Retroactive Program benefits, *[such]* **the** benefits *[shall be]* **are** payable in the first instance by the Oregon Insurance Guaranty Association, subject to reimbursement from the Workers' Benefit Fund by the director.

SECTION 2. ORS 656.790 is amended to read:

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

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

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

(a) Decisions of the Supreme Court and Court of Appeals that have significant impact on the workers' compensation system.

(b) Adequacy of workers' compensation benefits.

(c) Medical and legal system costs.

- (d) Adequacy of assessments for reserve programs and administrative costs.
- (e) The operation of programs funded by the Workers' Benefit Fund.
- (4) The members of the committee [shall be] **are** appointed for a term of three years and shall serve without compensation, but [shall be] **are** entitled to travel expenses. The committee may hire, subject to approval of the director, such experts as [it] **the committee** may require to discharge [its] **the committee's** duties. All expenses of the committee [shall] **must** be paid out of the Consumer and Business Services Fund.

Passed by House June 10, 2019

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 Timothy G. Sekerak, Chief Clerk of House

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 Tina Kotek, Speaker of House

Passed by Senate June 17, 2019

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 Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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 Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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 Bev Clarno, Secretary of State