

HB 3471 A STAFF MEASURE SUMMARY

Carrier: Rep. Elmer

House Committee On Business and Labor

Minority Report

Action Date: 03/29/23

Action: Do pass with different amendments to the bill. (Printed A-Eng.) Minority

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Report Signers: Rep. Lucetta Elmer, Rep. Shelly Boshart Davis

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 3/15, 3/29, 3/29

WHAT THE MEASURE DOES:

Prohibits employer from entering into settlement or agreement disposing of workers' compensation claim that bars worker from seeking further employment with employer unless such provision is first requested by worker or worker is represented by attorney. Applies to settlement agreement, disputed claim settlement, claim disposition agreement or any other settlement or agreement disposing of all or part of worker's claim entered into on or after the effective date of Act. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Workers' compensation claims settlement process including length of litigation
- Frequency that settlements include no rehire agreements
- Language modeled after 2019 Oregon Workplace Fairness Act
- Reason no rehire agreements are included in settlement agreement
- Power balance during settlement process between employer and worker
- Number of workers who are represented and unrepresented during settlement process
- Frequency of worker receiving benefits for life
- Position of Workers' Compensation Management-Labor Advisory Committee (MLAC)
- Other states that prohibit no rehire agreements in workers' compensation settlements

EFFECT OF AMENDMENT:

Workers' compensation settlement may include provision barring worker from seeking further employment, reemployment or reinstatement with employer if provision is requested by worker or worker is represented by attorney.

BACKGROUND:

The Workers' Compensation Division (Division) is a part of the Department of Consumer and Business Services (DCBS). The Division administers Oregon's workers' compensation system. Additionally, the Workers' Compensation Management-Labor Advisory Committee (MLAC) reviews key components of the workers' compensation system, such as advising DCBS about any proposed changes to the Workers' Benefit Fund. The Workers' Benefit Fund provides benefits for a number of programs, such as return-to-work programs.

A worker who suffers an injury or illness because of their employment has the right to file a claim, seek medical care, and access benefits for time off. An employer cannot force an injured worker to not file a claim, to say an injury did not happen while working, or discriminate against a worker because of workplace injury or illness. Most Oregon employers must return injured workers to their former positions when they are able to perform them, and most employers must return employees to suitable positions when they are not able to perform their former jobs but can still perform some jobs.

A worker may file a complaint with the Bureau of Labor and Industries or bring civil action against the employer, if the employer discriminates against the worker with respect to hire or tenure or any term or condition of

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employment because the worker has applied for benefits or invoked or utilized procedures related to workers' compensation or has given testimony under workers' compensation laws.

House Bill 3471 MRA prohibits an employer from entering into settlement or agreement disposing of workers' compensation claim that bars worker from seeking further employment with employer unless the provision is first requested by worker or worker is represented by attorney