

Testimony

Senate Bill 214

Sally Coen, Administrator
Workers' Compensation Division

Chair Taylor and members of the committee, I am Sally Coen, the administrator of the Workers' Compensation Division.

For those of you who are new to the committee, the Workers' Compensation Division is part of the Department of Consumer and Business Services. The division handles the administration and regulation of laws and rules affecting participants in the Oregon workers' compensation system. We ensure employers have appropriate insurance coverage, make sure injured workers receive timely and accurate benefits, facilitate workers' safe return to work, and provide technical assistance to regulated groups.

SB 214 is a traditional regulatory streamlining bill. We are always on the lookout for laws that are outdated or inconsistent with current industry practices. This bill proposes changes in two areas.

The first change affects fatality benefits and how these benefits are calculated in relation to the state average weekly wage. There are two statutory definitions for this wage in workers' compensation law. One definition refers to the average weekly wage in effect at the time of injury. Many workers' compensation benefits are based on a percentage of the state average weekly wage in effect on the worker's date of injury. The second definition refers to the state average weekly wage in effect when compensation is paid. This definition is applied to things that have automatic adjustments, such as the maximum temporary total disability rate, certain attorney fees, and the threshold to determine casual labor.

When fatality benefits are calculated, the law cites the average weekly wage definition in effect when compensation is paid, but should actually cite the definition for wages in effect at the time of injury. The division researched the legislative history and believes the incorrect definition was cited inadvertently.

Current industry practice applies the correct definition. SB 214 will align the statute with that practice and ensure beneficiaries and dependents will receive payments based on the definition that determines most workers' compensation benefits.

The second part of SB 214 addresses a situation when an injured worker does not receive payments due to an insurer's default. Under current law, if an insurer becomes insolvent, the division may advance funds to the worker from the Workers' Benefit Fund until the Oregon Insurance Guaranty Association (OIGA) assumes responsibility for the insurer's claims. After OIGA takes over the claims, it repays the division the amounts advanced from the fund.

However, the law is not clear that this process also applies to beneficiaries, such as surviving spouses and children who may be entitled to fatality benefits. SB 214 clarifies that beneficiaries are also entitled to the advanced funds from the Workers' Benefit Fund. OIGA would follow the same process to reimburse the advanced funds, just as under current law.

The Workers' Compensation Management-Labor Advisory Committee is in the process of reviewing the bill and we expect their advice in the next few weeks.

I would be happy to answer any questions you may have.