

ANALYSIS

Item 49: Department of Consumer and Business Services WCB Compensation Changes

Analyst: Emily Coates

Request: Increase Other Funds expenditure limitation for the Department of Consumer and Business Services by \$851,988 for Workers' Compensation Board compensation changes.

Analysis: The Workers' Compensation Board (WCB) is an independent adjudicatory agency within the Department of Consumer and Business Services (DCBS) that provides timely and impartial resolution of disputes arising under workers' compensation law and the Oregon Safe Employment Act. As directed by a budget note, WCB presented to the Joint Interim Committee on Ways and Means Subcommittee on Transportation and Economic Development in November 2025 on the Board's compensation restructure plan. This plan included reclassifying the Board Chair as an agency administrator, as the Board is established in statute as an independent agency rather than a division within DCBS. Additionally, the plan included revising the salary structure for the Presiding Administrative Law Judge (ALJ) and 19 ALJ's due to higher minimum qualification requirements compared to other ALJ's in Oregon, such as education, level of independent decision making, and licensure required.

The total impact of the compensation changes for the Board Chair, Presiding ALJ, and 19 ALJ positions is an increase of \$1.3 million Other Funds, a portion of which the Board can self-finance through abolishment of two vacant positions, resulting in a total request of \$851,988 Other Funds. The Board is funded by the Premium Assessment Operating Account (PAOA), which is supported by an assessment of the earned premiums of insurers who provide workers' compensation coverage. PAOA has a sufficient ending fund balance to support the compensation plan and will not require a rate increase.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$851,988 in Other Funds expenditure limitation for the Department of Consumer and Business Services in a budget reconciliation bill during the 2026 legislative session for Workers' Compensation Board compensation changes.

Request: Increase the Other Funds expenditure limitation by \$851,988 for salary increases for the Workers' Compensation Board (WCB) chair, presiding administrative law judge, and administrative law judges.

Recommendation: Approve the request during the 2026 Legislative Session.

Discussion: The WCB decides appeals from insurer and self-insured employer claim denials, appeals of Oregon OSHA citations, and appeals of decisions issued by the DCBS Workers' Compensation Division (WCD). Although WCB is organizationally situated within DCBS and is included within the department's budget, it operates as an independent adjudicatory body. This structural arrangement requires separation between administrative budget consolidation and judicial independence.

Under ORS 656.724(2), administrative law judges are in unclassified service, and the board, not the DCBS director, is responsible for setting their salaries in accordance with ORS 240.245. As a result, DCBS lacks authority over the employment, termination, or compensation of WCB personnel.

In response to WCB's compensation plan restructure, an independent exercise of the board's statutory responsibilities, the WCB chairperson reported to the November 2025 Interim Joint Committee on Ways and Means (Committee) on the restructuring of WCB's compensation plan for the board chairperson, the presiding administrative law judge, and administrative law judges. The Joint Interim Committee on Ways and Means acknowledged receipt of the report on November 19, 2025.

The report indicated that the compensation plan restructuring was fully supported by the Premium Assessment Operating Account (PAOA). PAOA is funded through an assessment on earned premiums of workers' compensation insurers, set by the DCBS director, and finances Oregon's worker protection system, including WCB, WCD, Oregon OSHA, and the Ombuds offices. Importantly, WCB reported that PAOA has sufficient ending fund balance to absorb the compensation changes and that no increase in the premium assessment rate is anticipated for 2026.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter Law 606, section 1(1), Oregon Laws 2025, for the Department of Consumer and Business Services, Workers' Compensation Board, by \$851,988 for the 2025-27 biennium.



Oregon

Tina Kotek, Governor



Department of
Consumer and
Business Services

December 8, 2025

Senator Kate Lieber, Co-Chair
Representative Tawna Sanchez, Co-Chair
Interim Joint Ways and Means Committee
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

Nature of the Request

Increase in Other Funds expenditure limitation from the Premium Assessment Operating Account (PAOA) to support the compensation plan restructure for the Workers' Compensation Board.

Agency Action

During the November 2025 Legislative Days, Joy Dougherty, the Workers' Compensation Board (WCB) chairperson, reported to the Interim Joint Committee on Ways and Means on WCB's compensation plan restructure. The report, acknowledged by the committee on Nov. 19, 2025, provided the process taken to restructure the compensation plan for the board chairperson, presiding administrative law judge, and administrative law judges.

WCB decides appeals from denials issued by insurers and self-insured employers, appeals of Oregon OSHA citations, and appeals from decisions issued by the Workers' Compensation Division (WCD) within the Department of Consumer and Business Services (DCBS). WCB is situated within DCBS' organizational structure as an independent body, but consolidated within DCBS' budget.

To ensure the independence of WCB's judicial authority, the DCBS director lacks authority over the employment, termination, or compensation of WCB personnel. Specifically, ORS 656.724(2) states: "Administrative Law Judges are in the unclassified service under ORS chapter 240, and the board shall fix their salaries in accordance with ORS 240.245." In turn, ORS 240.245 provides that "[t]he exempt service shall not be subject to the provisions of this chapter, except that, with regard to any position for which salaries are not fixed by law, the officer authorized by law to appoint or fill such position shall maintain a salary plan equitably applied to the exempt position and in reasonable conformity with the general salary structure of the state."

The report further articulated that WCB is funded by the Premium Assessment Operating Account (PAOA), which is supported by an assessment set by the DCBS director against the earned premiums of insurers that provide workers' compensation coverage. PAOA funds Oregon's worker protection system to include the WCD, Oregon OSHA, WCB, and the Ombuds offices: Ombuds for Oregon Workers and Small Business Ombudsman. PAOA has a sufficient ending fund balance to support the compensation plan and will not require a rate increase for 2026.

Action Requested

The Department of Consumer and Business Services, Workers' Compensation Board respectfully requests an increase of Other Funds expenditure limitation of \$851,988.

Legislation Affected

Approval of this request will increase Other Funds expenditure limitation by \$851,988 established by Chapter Law 606, section 01, subsection (01), for the Department of Consumer and Business Services biennium 2025-27.

Sincerely,



Sean O'Day
Director