

Date: March 6, 2025
To: Chair Taylor and Members of the Senate Committee on Labor and Business
From: Ivo Trummer, Government Relations Director, ivotru@saif.com
Elaine Schooler, Assistant General Counsel, elasch@saif.com
Re: **SAIF is opposed to SB 705 as introduced but remains committed to addressing adequacy of benefits for injured workers**

SAIF is Oregon's not-for-profit workers' compensation insurance company and the leading workers' compensation insurance carrier in Oregon. Since 1914, we've been taking care of injured workers and helping them get back to work. Through our partnership with Oregon employers, we've worked to advance workplace safety in Oregon, reducing the total number of injuries and keeping premium costs low. We're proud to be the workers' compensation provider of choice for the majority of Oregon employers, from thousands of small businesses to some of the state's economic leaders; as well as insuring over 1,200 public entities: state agencies, public universities, cities, counties, special districts, and school districts throughout the entire state. Covering more than half a million local workers each day, SAIF is committed to helping Oregon work better, smarter, and safer.

SB 705 aims to raise the amount of temporary disability benefits paid to injured workers who are temporarily unable to work in any capacity or their employer is unable to accommodate a modified work release. In Oregon, temporary disability benefits are typically calculated based on an averaging of the worker's pre-injury wages multiplied by 66 2/3 percent.¹ The calculated amount is the worker's time loss rate. The rate is subject to a statutory maximum and minimum amount.² A worker's temporary disability benefit is not subject to federal or state income tax. Oregon also does not limit the duration of time that a worker may receive temporary disability benefits.

As introduced, SB 705 would significantly increase the temporary disability benefit by raising the time loss rate to 100 percent of the injured worker's average weekly wage, up to the state's average weekly wage. As a result, an injured worker whose average weekly wage was below the statewide average weekly wage would receive their pre-injury gross wages in full. Additionally, because temporary disability benefits are exempt from state and federal income tax, an injured worker would receive more money as temporary disability benefits compared to their pre-injury net wages. As introduced, SB 705 would also create a "benefit cliff" for injured workers whose wages are above the state average weekly wage as they would remain subject to the current time loss rate calculation of 66 2/3 percent of their pre-injury gross wages. This disparity and the likely significant system-wide impacts to workers' compensation rates and premiums lead us to oppose SB 705 as introduced.

The -1 amendment to SB 705 would create two different methods for calculating temporary disability benefits. For workers making less than the state average weekly wage, their weekly benefit would be calculated as "100 percent of the worker's average weekly wage net of payroll deductions." Alternatively, workers whose average weekly wage exceeds the state average

¹ As of 2022, Oregon along with 35 other US states – as well as the District of Columbia, and the federal longshore program – use 66 2/3 of average weekly wage as the basis for calculating temporary disability benefits. Source: [Excerpt from WCRI and IAIABC Workers' Compensation Laws as of 2022](#)

² Please see the Workers' Compensation Division, [Bulletin 111](#), adjusting the state average weekly wage and maximum compensation rate on an annual basis. Currently, the state average weekly wage is \$1,331.48 and the maximum rate is \$1,770.87.

weekly wage, would receive 66 2/3 percent of their pre-injury gross wages. SAIF opposes the -1 for several reasons. First, the -1 amendment would continue the “benefit cliff” for workers just over the state average weekly wage. This creates an unsustainable equity issue and would likely lead to litigation as there would be an incentive to have earnings just below the state average weekly wage. In addition, the phrase “net of payroll deductions” is overly vague and raises questions as to how an insurer would adjust for possible changing pre-tax and post-tax deductions a worker might see in their pay over the course of time. We fear that this vagueness as to what constitutes “net of payroll deductions” would lead to an increase in lengthy and expensive litigation. Lastly, running two different calculation methods – “net of payroll deductions” vs. percentage of (gross) average weekly wage – would burden the insurer and would create a system that would make it hard for an injured worker to consistently understand their rights and benefits. For these reasons, SAIF opposes the -1 amendment to SB 705.

The -2 amendment to SB 705 proposes a tiered system to calculate an injured worker’s temporary disability benefit. Here, every injured worker would receive 80 percent of their average weekly wage up to the state average weekly wage, and 66 2/3 percent of any amount of their pre-injury wage that exceeds the state average weekly wage up to the maximum compensation amount.³ The -2 amendment improves on the -1 amendment by keeping the current calculation scheme (as a percentage of the average weekly wage), and by eliminating the issue of a “benefit cliff”; however, the proposed change would result in Oregon insurers and self-insured employers paying the highest temporary disability benefit compared to all other states that calculate the benefit based on a percentage of the worker’s average gross wages.

Historically at SAIF, temporary disability payments account for half of the paid indemnity losses, and close to 25 percent of total paid losses. Any increase of the amount paid will impact costs, which over time will impact insurance rates and employer premiums. In addition, an increase in temporary disability benefits will impact the Worker Benefit Fund (WBF) since supplemental temporary disability awards are funded by the WBF. Because further analysis is needed to understand the impact of the proposed changes on system-wide costs, on insurers and employers, and on the WBF, it would be premature to make any decisions on the -2 amendment.

SAIF is committed to working towards a balanced and fair workers’ compensation system in Oregon that continues to be widely accessible, helps injured workers recover and get back to work, and remains affordable for policyholders. SAIF also recognizes the importance of ensuring adequacy of benefits for injured workers and MLAC’s commitment to consider this issue. We respectfully request the Chair and the Members of the Senate Committee on Labor and Workplace Standards to return the bill and concept to MLAC for further discussion and development.

³ Please see Workers’ Compensation Division, [Bulletin 111](#), adjusting the state average weekly wage and maximum compensation rate on an annual basis. Currently, the state average weekly wage is \$1,331.48 and maximum compensation rate is \$1,770.87.