

## HB 3471 -2, -3 STAFF MEASURE SUMMARY

### House Committee On Business and Labor

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**Meeting Dates:** 3/15, 3/27

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#### 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. 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 Oregon Workplace Fairness Act 2019
- 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:

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Establishes as unlawful employment practice for employer to request or require worker to enter into settlement agreement, disputed claim settlement, claim disposition agreement or any other settlement or agreement disposing of all or part of worker's claim for workers' compensation that contains provision barring worker from seeking further employment, reemployment or reinstatement with employer, unless such provision is first requested by worker. Permits worker to file complaint with Bureau of Labor and Industries and bring civil action. Complainant may recover civil penalty of up to \$5,000 and relief.

-3 Workers' compensation settlement may not include provision barring worker from seeking further employment, reemployment or reinstatement with employer unless provision is requested by worker or worker is not represented by legal counsel.

#### BACKGROUND:

The Workers' Compensation Division (Division) is a part of the Department of Consumer and Business Services (Department). 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 the Department 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,

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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. An employer with 21 employees at the time of a workers' injury, must reinstate worker to their former position. If your employer has at least six employees, a worker is entitled to reemployment in a position that is both available and suitable.

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 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 prohibits an employer from entering into settlement or agreement disposing of a workers' compensation claim that bars worker from seeking further employment with employer unless such provision is first requested by worker.