

HB 3471 A -A6 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Prepared By: Whitney Perez, LPRO Analyst

Meeting Dates: 4/27, 5/4

WHAT THE MEASURE DOES:

Makes it an unlawful employment practice for employer to request or require worker to enter into a settlement agreement, disputed claim settlement, claim disposition agreement, or any other agreement disposing of all, or part of a workers' compensation claim that contains a provision barring workers from seeking further employment, reemployment, or reinstatement with employer, unless such provision is first requested by worker. Defines "worker" as a worker who has filed a workers' compensation claim under ORS chapter 656. 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 other specified relief. Applies to settlements or agreements entered into on or after effective date. Declares emergency, effective on passage.

FISCAL: Minimal fiscal impact

REVENUE: No revenue impact

HOUSE VOTE: Ayes, 35; Nays, 23

ISSUES DISCUSSED:

- Purpose of workers' compensation
- Examples of power balance issues during settlement process
- Relationship between employment settlement agreements and workers' compensation settlement agreements
- Impact of no rehire provisions on workers
- Need to ensure no rehire provisions are voluntary

EFFECT OF AMENDMENT:

-A6 Defines key terms. Makes it an unlawful employment practice for employer to offer to negotiate settlement agreement conditional upon worker entering into a no-rehire agreement. Makes it an unlawful employment practice for employer to make an offer for settlement agreement conditional on worker agreeing to no-rehire provision unless specified exception is met. 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 other specified relief. Applies to settlement agreement entered into on or after effective date.

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,

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and most employers must return employees to suitable positions when they are not able 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 a civil against their 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 A 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.