

# House Bill 2745

Sponsored by Representative RUIZ, Senator GORSEK; Representatives HUDSON, MUNOZ, Senators CAMPOS, FREDERICK, MEEK (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act would set the time by which benefits would have to be paid to a worker when the employer is being investigated for not complying with workers' comp law. (Flesch Readability Score: 60.7).

Provides the timeline for payment of temporary disability compensation during an investigation of the compliance of the worker's employer with workers' compensation law.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to benefit payments during employer compliance investigations; amending ORS 656.054 and  
3 656.605; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.054 is amended to read:

6 656.054. (1) A compensable injury to a subject worker while in the employ of a noncomplying  
7 employer is compensable to the same extent as if the employer had complied with this chapter.

8 **(2)(a)** The Director of the Department of Consumer and Business Services shall refer the claim  
9 for such an injury to an assigned claims agent within 60 days of the date the director has notice  
10 of the claim.

11 **(b)** At the time of referral of the claim, the director shall notify the employer in writing re-  
12 garding the referral of the claim and the employer's right to object to the claim. [*A claim for com-  
13 pensation made by such a worker shall be processed by the assigned claims agent in the same manner  
14 as a claim made by a worker employed by a carrier-insured employer, except that the time within which  
15 the first installment of compensation is to be paid, pursuant to ORS 656.262 (4), shall not begin to run  
16 until the director has referred the claim to the assigned claims agent.*]

17 **(3)(a) The first installment of temporary disability compensation under this section shall  
18 be paid no later than the 14th day after the director has notice or knowledge of a request for  
19 investigation of the employer's compliance, and of the worker's disability, if the attending  
20 physician or nurse practitioner authorized to provide compensable medical services under  
21 ORS 656.245 authorizes the payment of temporary disability compensation.**

22 **(b) Thereafter, temporary disability compensation shall be paid at least once each two  
23 weeks, subject to the other requirements of this section, except where the director deter-  
24 mines that payment in installments should be made at some other interval.**

25 **(c) Payments under this subsection shall be paid by the assigned claims agent and may  
26 be reimbursed from the Workers' Benefit Fund.**

27 **(4)** At any time within which the claim may be accepted or denied as provided in ORS 656.262,  
28 the employer may request a hearing to object to the claim.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **(5)** If an order becomes final holding the claim to be compensable, the employer is liable for all  
2 costs imposed by this chapter, including reasonable attorney fees to be paid to the worker's attorney  
3 for services rendered in connection with the employer's objection to the claim.

4       [(2)] **(6)(a)** In addition to, and not in lieu of, any civil penalties assessed pursuant to ORS  
5 656.735, all costs to the Workers' Benefit Fund incurred under [subsection (1)] **subsections (1) to**  
6 **(5)** of this section shall be a liability of the noncomplying employer. Such costs include compen-  
7 sation, disputed claim settlements pursuant to ORS 656.289 and claim disposition agreements pur-  
8 suant to ORS 656.236, whether or not the noncomplying employer agrees and executes such  
9 documents, reasonable administrative costs and claims processing costs provided by contract, at-  
10 torney fees related to compensability issues and any attorney fees awarded to the claimant, but do  
11 not include assessments for reserves in the Workers' Benefit Fund.

12       **(b)** The director shall recover such costs from the employer.

13       **(c)** The director periodically shall pay the assigned claims agent from the Workers' Benefit Fund  
14 for any costs the assigned claims agent incurs under this section in accordance with the terms of  
15 the contract.

16       **(d)** When the director prevails in any action brought pursuant to this subsection, the director  
17 is entitled to recover from the noncomplying employer court costs and attorney fees incurred by the  
18 director.

19       [(3)] **(7)(a)** Periodically, or upon the request of a noncomplying employer in a particular claim,  
20 the director shall audit the files of the State Accident Insurance Fund Corporation and any assigned  
21 claims agents to validate the amount reimbursed pursuant to subsection [(2)] **(6)** of this section.

22       **(b)** The conditions for granting or denying of reimbursement shall be specified in the contract  
23 with the assigned claims agent.

24       **(c)** The contract at least shall provide for denial of reimbursement if, upon such audit, any of  
25 the following are found to apply:

26       [(a)] **(A)** Compensation has been paid as a result of untimely, inaccurate, or improper claims  
27 processing;

28       [(b)] **(B)** Compensation has been paid negligently for treatment of any condition unrelated to the  
29 compensable condition;

30       [(c)] **(C)** The compensability of an accepted claim is questionable and the rationale for accept-  
31 ance has not been reasonably documented in accordance with generally accepted claims manage-  
32 ment procedures;

33       [(d)] **(D)** The separate payments of compensation have not been documented in accordance with  
34 generally accepted accounting procedures; or

35       [(e)] **(E)** The payments were made pursuant to a disposition agreement as provided by ORS  
36 656.236 without the prior approval of the director.

37       [(4)] **(8)** The State Accident Insurance Fund Corporation and any assigned claims agent may  
38 request review under ORS 656.704 of any disapproval of reimbursement made by the director under  
39 this section.

40       [(5)] **(9)** Claims of injured workers of noncomplying employers may be assigned and reassigned  
41 by the director for claims processing regardless of the date of the worker's injury.

42       [(6)] **(10)** In selecting an assigned claims agent, the director must consider the assigned claims  
43 agent's ability to deliver timely and appropriate benefits to injured workers, the ability to control  
44 both claims cost and administrative cost and such other factors as the director considers appropri-  
45 ate.

1        [(7)] (11) If no qualified entity agrees to be an assigned claims agent, the director may require  
 2 one or more of the three highest premium producing insurers to be assigned claims agents.  
 3 Notwithstanding any other provision of law, the director’s selection of assigned claims agents shall  
 4 be made at the sole discretion of the director. Such selections shall not be subject to review by any  
 5 court or other administrative body.

6        [(8)] (12) Any assigned claims agent, except the State Accident Insurance Fund Corporation, may  
 7 employ legal counsel of its choice for representation under this section.

8        [(9)] (13) As used in this section, “assigned claims agent” means an insurer, casualty adjuster  
 9 or a third party administrator with whom the director contracts to manage claims of injured work-  
 10 ers of noncomplying employers.

11        **SECTION 2.** ORS 656.605 is amended to read:

12        656.605. (1) The Workers’ Benefit Fund is created in the State Treasury, separate and distinct  
 13 from the General Fund. Moneys in the fund shall be invested in the same manner as other state  
 14 moneys and investment earnings shall be credited to the fund. The fund shall consist of the follow-  
 15 ing:

16        (a) Moneys received pursuant to ORS 656.506.

17        (b) Moneys recovered under ORS 656.054.

18        (c) Penalties recovered under ORS 656.735.

19        (d) All moneys received by the Director of the Department of Consumer and Business Services  
 20 pursuant to law or from any other source for purposes for which the fund may be expended.

21        (2) Moneys in the Workers’ Benefit Fund may be expended for the following purposes:

22        (a) Expenses of programs under ORS 656.445, 656.506, 656.622, 656.625, 656.628 and 656.630.

23        (b) Proceedings against noncomplying employers pursuant to ORS 656.054 and 656.735.

24        (c) Expenses of vocational assistance on claims, the cost of which was imposed pursuant to  
 25 section 15, chapter 600, Oregon Laws 1985.

26        (d) Payment of supplemental temporary disability benefits for workers employed in more than  
 27 one job at the time of injury and reimbursement of the costs of administering payments resulting  
 28 from elections by insurers and self-insured employers as provided by ORS 656.210 (5).

29        (e) Payments made to injured workers pursuant to section 6a, chapter 865, Oregon Laws 2001.

30        (f) Expenses of the Bureau of Labor and Industries for enforcing ORS 659A.040, 659A.043,  
 31 659A.046, 659A.049 and 659A.052, subject to an agreement between the Director of the Department  
 32 of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries.  
 33 The agreement must include, but is not limited to, the amount of funds to be transferred to the bu-  
 34 reau for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 and the information  
 35 relating to the enforcement of ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 that the  
 36 bureau must report to the director.

37        (g) Reimbursement to the insurer or self-insured employer for the amount of permanent total  
 38 disability benefits paid after the date of the notice of closure that was upheld pursuant to ORS  
 39 656.206.

40        (h) Reimbursement of vocational benefit expenses as provided in ORS 656.313.

41        **(i) Payment of temporary disability benefits pursuant to ORS 656.054 while employer**  
 42 **compliance with this chapter is investigated by the Director of the Department of Business**  
 43 **and Consumer Services under ORS 656.054.**

44        (3) Subject to the following provisions, all moneys in the fund are appropriated continuously to  
 45 the Director of the Department of Consumer and Business Services to carry out the activities for

1 which the fund may be expended:

2 (a) Moneys received pursuant to ORS 656.054 and 656.735 and transfers made pursuant to ORS  
3 705.148 may be expended only to carry out the provisions of ORS 656.054 and 656.735 and section  
4 15, chapter 600, Oregon Laws 1985.

5 (b) Moneys received pursuant to ORS 656.506 and the transfers of unexpended and unobligated  
6 moneys in the Retroactive Reserve, Reemployment Assistance Reserve, Reopened Claims Reserve  
7 and Handicapped Workers Reserve referred to in ORS 656.506, 656.622, 656.625 and 656.628 (All 1993  
8 Edition) may be expended only to carry out the programs referred to in ORS 656.506, 656.622,  
9 656.625, 656.628 and 656.630.

10 (4) Notwithstanding any other provision of this chapter, if the director determines at any time  
11 that there are insufficient moneys in the Workers' Benefit Fund to pay the expenses of programs for  
12 which expenditure of the fund is authorized, the director may reduce the level of benefits payable  
13 accordingly.

14 **SECTION 3. This 2025 Act being necessary for the immediate preservation of the public**  
15 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**  
16 **on its passage.**

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