

SENATE AMENDMENTS TO SENATE BILL 1519

By COMMITTEE ON LABOR AND BUSINESS

February 12

1 On page 1 of the printed bill, line 2, delete “656.210” and insert “656.206, 656.210 and 656.211”.

2 In line 12, after “wage” insert “in effect on the date of injury” and delete “wages” and insert
3 “the worker’s wage”.

4 In line 15, after the second “wage” insert “, in effect on the date of injury”.

5 On page 3, delete lines 15 through 17 and insert:

6 “**SECTION 2.** ORS 656.211 is amended to read:

7 “656.211. As used in ORS 656.210 (1)(b), ‘average weekly wage’ means the average weekly wage
8 of workers in covered employment in Oregon, as determined by the Employment Department, for the
9 last quarter of the calendar year preceding the fiscal year in which compensation is paid and as
10 computed by the Employment Department as of May 15 of each year.

11 “**SECTION 3. The amendments to ORS 656.210 and 656.211 by sections 1 and 2 of this 2026**
12 **Act apply to claims with a date of injury on or after January 1, 2027.**

13 “**SECTION 4.** ORS 656.206 is amended to read:

14 “656.206. (1) As used in this section:

15 “(a) ‘Essential functions’ means the primary tasks associated with the job.

16 “(b) ‘Materially improved medically’ means an actual change for the better in the worker’s
17 medical condition that is supported by objective findings.

18 “(c) ‘Materially improved vocationally’ means an actual change for the better in the:

19 “(A) Worker’s vocational capability; or

20 “(B) Likelihood that the worker can return to work in a gainful and suitable occupation.

21 “(d) ‘Permanent total disability’ means, notwithstanding ORS 656.225, the loss, including preex-
22 isting disability, of use or function of any portion of the body which permanently incapacitates the
23 worker from regularly performing work at a gainful and suitable occupation.

24 “(e) ‘Regularly performing work’ means the ability of the worker to discharge the essential
25 functions of the job.

26 “(f) ‘Suitable occupation’ means one that the worker has the ability and the training or experi-
27 ence to perform, or an occupation that the worker is able to perform after rehabilitation.

28 “(g) ‘Wages’ means wages as determined under ORS 656.210.

29 “[*(2) If permanent total disability results from a worker’s injury, the worker shall receive during*
30 *the period of that disability compensation benefits equal to 66-2/3 percent of wages, no more than 133*
31 *percent of the average weekly wage or no less than 33 percent of the average weekly wage.*]

32 “**(2) During the period of permanent total disability that results from a worker’s injury,**
33 **the worker shall receive compensation equal to:**

34 “**(a) Seventy-five percent of the worker’s wage that is equal to or less than 75 percent**
35 **of the average weekly wage, but not less than 33 percent of the average weekly wage, in ef-**

1 **fect on the date of injury; and**

2 **“(b) Sixty-five percent of the worker’s wage that is greater than 75 percent of the aver-**
3 **age weekly wage, but not more than 133 percent of the average weekly wage, in effect on the**
4 **date of injury.**

5 “(3) A worker has the burden of proving permanent total disability status and must establish
6 that the worker is willing to seek regular gainful employment and that the worker has made rea-
7 sonable efforts to obtain such employment.

8 “(4) When requested by the Director of the Department of Consumer and Business Services, a
9 worker who receives permanent total disability benefits shall file on a form provided by the director,
10 a sworn statement of the worker’s gross annual income for the preceding year along with such other
11 information as the director considers necessary to determine whether the worker regularly performs
12 work at a gainful and suitable occupation.

13 “(5) Each insurer shall reexamine periodically each permanent total disability claim for which
14 the insurer has current payment responsibility to determine whether the worker has materially im-
15 proved, either medically or vocationally, and is no longer permanently incapacitated from regularly
16 performing work at a gainful and suitable occupation. Reexamination must be conducted every two
17 years or at such other more frequent interval as the director may prescribe. Reexamination must
18 include such medical examinations, vocational evaluations, reports and other records as the insurer
19 considers necessary or the director may require.

20 “(6)(a) If a worker receiving permanent total disability benefits is found to be materially im-
21 proved and capable of regularly performing work at a gainful and suitable occupation, the insurer
22 or self-insured employer shall issue a notice of closure pursuant to ORS 656.268. Permanent total
23 disability benefits shall be paid through the date of the notice of closure. Notwithstanding ORS
24 656.268 (5), if a worker objects to a notice of closure issued under this subsection, the worker shall
25 request a hearing. If the worker requests a hearing on the notice of closure before the Hearings
26 Division of the Workers’ Compensation Board within 30 days of the date of the notice of closure,
27 the insurer or self-insured employer shall continue payment of permanent total disability benefits
28 until an order of the Hearings Division or a subsequent order affirms the notice of closure or until
29 another order that terminates the worker’s benefits becomes final. If the worker requests a hearing
30 on the notice of closure more than 30 days from the date of the notice of closure but before the
31 60-day period for requesting a hearing expires, the insurer or self-insured employer shall resume
32 paying permanent total disability benefits from the date the hearing is requested and shall continue
33 payment of benefits until an order of the Hearings Division or a subsequent order affirms the notice
34 of closure or until another order that terminates the worker’s benefits becomes final. If the notice
35 of closure is upheld by the Hearings Division, the insurer or self-insured employer must be reim-
36 bursed from the Workers’ Benefit Fund for the amount of permanent total disability benefits paid
37 after the date of the notice of closure issued under this subsection.

38 “(b) An insurer or self-insured employer must establish that the condition of a worker who is
39 receiving permanent total disability benefits has materially improved by a preponderance of the ev-
40 idence presented at hearing.

41 “(c) Medical examinations or vocational evaluations used to support the issuance of a notice of
42 closure under this subsection must include at least one report in which the author personally ob-
43 served the worker.

44 “(d) Notwithstanding section 54 (3), chapter 2, Oregon Laws 1990, the Hearings Division of the
45 Workers’ Compensation Board may request the director to order a medical arbiter examination of

1 an injured worker who has requested a hearing under this subsection.

2 “(7) A worker who has had permanent total disability benefits terminated under this section by
3 an order that has become final is eligible for vocational assistance pursuant to ORS 656.340.
4 Notwithstanding ORS 656.268 (10), if a worker has enrolled in and is actively engaged in a training
5 program, when vocational assistance provided under this section ends or the worker ceases to be
6 enrolled and actively engaged in the training program, the insurer or the self-insured employer shall
7 determine the extent of disability pursuant to ORS 656.214.

8 “(8) A worker receiving permanent total disability benefits is required, if requested by the di-
9 rector, the insurer or the self-insured employer, to submit to a vocational evaluation at a time rea-
10 sonably convenient to the worker as may be provided by the rules of the director. No more than
11 three evaluations may be requested except after notification to and authorization by the director.
12 If the worker refuses to submit to or obstructs a vocational evaluation, the rights of the worker to
13 compensation must be suspended with the consent of the director until the evaluation has taken
14 place, and no compensation is payable for the period during which the worker refused to submit to
15 or obstructed the evaluation. The insurer or self-insured employer shall pay the costs of the evalu-
16 ation and related services that are reasonably necessary to allow the worker to attend the evalu-
17 ation requested under this subsection. As used in this subsection, ‘related services’ includes, but is
18 not limited to, wages, child care, travel, meals and lodging.

19 “(9) Notwithstanding any other provisions of this chapter, if a worker receiving permanent total
20 disability incurs a new compensable injury, the worker’s entitlement to compensation for the new
21 injury shall be limited to medical benefits pursuant to ORS 656.245 and permanent partial disability
22 benefits for impairment, as determined in the manner set forth in ORS 656.214 (2).

23 “(10) When a worker eligible for benefits under this section returns to work, if the combined
24 total of the worker’s post-injury wages plus permanent total disability benefit exceeds the worker’s
25 wage at the time of injury, the worker’s permanent total disability benefit must be reduced by the
26 amount the worker’s wages plus statutory permanent total disability benefit exceeds the worker’s
27 wage at injury.

28 “(11) For purposes of this section:

29 “(a) A gainful occupation for workers with a date of injury prior to January 1, 2006, who were:

30 “(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides
31 weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three
32 that are applicable to Oregon residents and that are published annually in the Federal Register by
33 the United States Department of Health and Human Services or 66-2/3 percent of the worker’s av-
34 erage weekly wages from all employment for the 52 weeks prior to the date of injury.

35 “(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were em-
36 ployed for at least four weeks prior to the date of injury, is an occupation that provides weekly
37 wages that are the lesser of the most recent federal poverty guidelines for a family of three that
38 are applicable to Oregon residents and that are published annually in the Federal Register by the
39 United States Department of Health and Human Services or 66-2/3 percent of the worker’s average
40 weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of
41 actual employment, excluding any extended periods of unemployment.

42 “(C) Employed for less than four weeks prior to the date of injury with no other employment
43 during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that
44 are the lesser of the most recent federal poverty guidelines for a family of three that are applicable
45 to Oregon residents and that are published annually in the Federal Register by the United States

1 Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended
2 by the parties at the time of initial hire.

3 “(b) A gainful occupation for workers with a date of injury on or after January 1, 2006, who
4 were:

5 “(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides
6 weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three
7 that are applicable to Oregon residents and that are published annually in the Federal Register by
8 the United States Department of Health and Human Services or 66-2/3 percent of the worker’s av-
9 erage weekly wages from all employment for the 52 weeks prior to the date of injury adjusted by
10 the percentage of change in the applicable federal poverty guidelines for a family of three from the
11 date of injury to the date of evaluation of the extent of the worker’s disability.

12 “(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were em-
13 ployed for at least four weeks prior to the date of injury, is an occupation that provides weekly
14 wages that are the lesser of the most recent federal poverty guidelines for a family of three that
15 are applicable to Oregon residents and that are published annually in the Federal Register by the
16 United States Department of Health and Human Services or 66-2/3 percent of the worker’s average
17 weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of
18 actual employment, excluding any extended periods of unemployment and as adjusted by the per-
19 centage of change in the applicable federal poverty guidelines for a family of three from the date
20 of injury to the date of evaluation of the extent of the worker’s disability.

21 “(C) Employed for less than four weeks prior to the date of injury with no other employment
22 during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that
23 are the lesser of the most recent federal poverty guidelines for a family of three that are applicable
24 to Oregon residents and that are published annually in the Federal Register by the United States
25 Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended
26 by the parties at the time of initial hire adjusted by the percentage of change in the applicable
27 federal poverty guidelines for a family of three from the date of injury to the date of evaluation of
28 the extent of the worker’s disability.

29 “**SECTION 5. The amendments to ORS 656.206 by section 4 of this 2026 Act apply to**
30 **claims with a date of injury on or after January 1, 2027.”.**