

Bill Analysis, HB 2681

SUBJECT: Prohibits injured worker who settles a claim through a disputed claim settlement from invoking employment reinstatement rights, and reemployment rights.

SPONSOR: Representative Johnson, at the request of Associated Oregon Industries

Existing Law:

- Workers' compensation law authorizes the parties to a workers' compensation claim to resolve that dispute through a disputed claims settlement agreement
- Employment discrimination law gives an injured worker with a compensable claim the right to reinstatement to the job they held at the time of injury, or the right to reemployment with the employer they worked for at the time of injury

This bill:

- Changes an injured workers' reinstatement and reemployment rights to say that a worker who resolves their workers' compensation claim through a disputed claim settlement does not have the right to employment reinstatement or reemployment, based on any injury related to the settled claim

Analysis:

1. Laws protecting injured workers against discrimination entitle an injured worker to be reinstated to their original job or to another job with their employer. Workers' compensation laws also authorize injured workers and their employers to enter a settlement, termed a disputed claim settlement, to resolve the workers' compensation claim. Workers agree to give up additional workers' compensation rights and benefits in exchange for a monetary settlement. An outcome of such settlement is that, technically, the worker no longer has a compensable claim. This bill expressly provides that a worker who settles their claim through a disputed claim settlement no longer has a compensable claim, and gives up their reinstatement and reemployment rights.
2. It is not clear this bill changes current law significantly as a worker only has reinstatement and reemployment rights if they have a "compensable" claim, and, under current law, a worker who has settled their claim through a disputed claims settlement no longer has a compensable claim.
3. The bill may have unintended consequences due to its wording. The bill might limit reinstatement or reemployment rights related to injuries or conditions not included in the disputed claim settlement. The bill applies to "all injuries or conditions arising from claims resolved by a disputed claims settlement" This could be read to mean that there are no

reinstatement or reemployment rights for injuries or claims that were not expressly included in the settlement agreement if they arise from a claim that is settled.

4. A second possible unintended consequence may arise from the wording of the bill stating an injured worker who settles their claim no longer has rights under “this chapter.” This wording presumably means chapter 656, which is the set of laws controlling workers’ compensation matters. This language could be interpreted to limit rights that were not expressly included in the settlement agreement.

Questions and/or suggested amendments:

1. If the bill’s intent is to limit reinstatement and reemployment rights only as to injuries expressly settled in the disputed claim settlement, the bill’s language should be amended so that the worker only gives up reinstatement and reemployment rights as to injuries or conditions expressly included in the settlement agreement.
2. To address the possible unintended consequence of limiting other worker rights under the chapter 656 workers’ compensation laws, the language should be amended so as not to apply to rights under “this chapter.”
3. The bill’s applicability may need clarification, depending on the proponent’s intention. It is possible to read the bill to apply based on date of injury, or apply based on the date the disputed claim settlement is signed. An applicability clause would help clarify this point.

Fiscal Impact to DCBS: None. The Workers’ Compensation Division does not enforce or regulate employment reinstatement or reemployment rights provided under ORS 659A.043 and 659A.046.

Other Economic Impact: Unknown

Support: Associated Oregon Industries

Opposition: Unknown

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