



# Reinstatement and Reemployment of Injured Workers Legislative Concept

Department of Administrative Services

LC 0675

2015 Legislative Session



# ORS 659A.052

## Reinstatement and Reemployment Rights of Injured State Workers

- ▶ **ORS 659A.052 provides state injured workers with rights to reinstatement and reemployment in agencies besides the agency in which they were injured.**
- ▶ **Was last revised following passage of HB 2778 B by Legislature.**
- ▶ **Revision directed DAS to adopt its reinstatement and reemployment of injured workers policies as administrative rules including rules that addressed placement of injured workers in other state agencies.**



# HB 2778 B

- **HB 2778 B resulted from a legislative concept introduced by Mary Botkin, Legislative Coordinator for AFSCME**
- **MLAC reviewed this as the State Employee Return to Work Concept at its January 30, 2009 and February 13, 2009 meetings**
- **Bill was passed by Legislature at the request of AFSCME Council 75 effective July 1, 2009**



# DAS' Rules

- In 2009 in response to adoption of the bill, DAS promulgated its policies into:
  - OAR 105-050-0025, Injured Worker Preference for Light Duty Assignments under ORS 659A.052
    - Provides rules for temporary assignments for injured state workers
  - OAR 105-050-0030, Injured Worker Preference for Entry Level Positions Under ORS 659A.052
    - Provides rules for permanent assignments for injured state workers
- The rules stand today as when adopted in 2009.



# DAS' Rules (Continued)

- For temporary placement the rules provide:
  - An agency may place an injured worker in another agency temporarily if work is not found within the agency at injury.
- For permanent placement the rules provide:
  - An agency must place an injured worker in another agency when permanent restrictions are known and the agency at injury cannot provide permanent work that meets those restrictions.
- The point at which all permanent restrictions are known is when an injured worker is medically stationary.



# Legislative Concept 0675

## ➤ Basis of the Concept:

- Correct current language in ORS 659A.052 to better reflect the mandated rules regarding when an injured worker is placed in another agency.
- DOJ has advised that agencies are vulnerable to future discrimination claims without a statutory reference to the medically stationary requirement for injured workers to be placed permanently in another agency.

## ➤ Intent of the Concept:

- Align the statute with the rules legislature mandated DAS to adopt.
- Avoid future claims.
- Continue to provide the additional level of temporary and permanent work for injured state workers as directed.