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LC 178

Brief summary

Modifies workers' compensation law to increase the temporary disability benefit rate.

Analysis

What the law currently does

Temporary disability benefits (ORS 656.210)

- If a worker is unable to work due to their injury, Oregon's workers' compensation law provides that they may receive temporary disability benefits based on their weekly wage. Temporary disability benefits are paid at the rate of 66 2/3% of the worker's gross weekly wage.
- Temporary disability benefits are subject to a maximum and a minimum. The maximum benefit is 133% of the state average weekly wage (SAWW). The minimum payment amount is 90% of wages a week, or the amount of $50 a week, whichever amount is less.
- Workers who are receiving temporary disability benefits are eligible for an annual cost of living increase on July 1, based on any increase in the SAWW.

State average weekly wage (SAWW)(ORS 656.211)
The SAWW is calculated by the Employment Department, and is the average weekly wage of workers in covered employment in Oregon for the last quarter of the calendar year preceding the fiscal year in which compensation is paid. As noted above, the SAWW is the basis for the maximum benefit, and for an annual cost of living increase.

What will change if the bill is enacted

The temporary disability benefit rate would change from a flat rate to a tiered rate. Under LC 178, a worker's temporary disability benefit would be:

- 75% of the worker's wage that is equal to or less than 75% of the SAWW, ***and***
- 65% of the worker's wage that is greater than 75% of the SAWW.

For example, if a worker's weekly wage is $1,250, and 75% of the SAWW is $1,000, the worker's benefit would be $912.50. (75% of $1,000 added to 65% of $250.)

The changes in the temporary disability rate would be effective January 1, 2027. The new rate would apply to claims for temporary total disability compensation for injuries sustained or diseases incurred on or after January 1, 2027.

Likely impacts, results, or consequences if the bill is enacted

- Temporary disability benefits paid to injured workers would increase.
- Claim costs for insurers and self-insured employers would increase due to the higher benefit payments, which could result in an increase in workers' compensation insurance rates paid by employers.
- Overall, workers' compensation system costs would increase, and the higher temporary disability rate will be an ongoing cost. In a draft analysis, the National Council on Compensation Insurance (NCCI) estimated that shifting to a tiered temporary disability benefit would increase workers' compensation system costs by 3.1% ($25 million).[1]

Questions/relevant information for the bill sponsor or primary proponent

(1) The applicability language in section 2 may cause some confusion. Section 2 states the changes would apply "*…to claims for temporary total disability compensation for injuries sustained or diseases incurred on or after January 1, 2027.*"

(i) The language "*for injuries sustained or diseases incurred on or after January 1, 2027*" appears to be referencing the date of injury for a claim. However, for occupational disease claims, the date of injury is not based on when the disease was "incurred", but rather, the date of disability for the disease, or the date of the first medical treatment of it. Given that an occupational disease could develop and affect the worker before they file a claim, the term "*incurred*" could be interpreted as excluding occupational disease claims that have a date of injury on or after January 1, 2027.

(ii) Specifying "*claims for temporary total disability compensation*" is unnecessary, since filing a claim already encompasses requesting temporary disability compensation.

(2) Under current law, both temporary disability benefits and permanent total disability (PTD) benefits are 66 2/3% of the worker's gross weekly wage. If LC 178 is enacted, the benefit payments for temporary disability will increase, making them higher than the benefit payments for permanently

[1] This estimate is based on NCCI's October 6, 2025 analysis, provided to the Management-Labor Advisory Committee. The analysis estimates the impact of a scenario that "*…would increase the compensation rate from 66 2/3% to 75% of the injured worker's wage, for all workers' wages up to 75% of the State Average Weekly Wage (SAWW). For any portion of wages above 75% of the SAWW, the compensation rate would decrease from 66 2/3% to 65%.*"

totally disabled workers. LC 178 does not change PTD benefit rates. As a result, workers who transition from temporary to permanent disability status will receive a permanent, lifetime benefit that is lower than the benefit they received when they were temporarily disabled.

(3) Under LC 178, it is unclear whether worker temporary disability benefits are intended to fluctuate as the SAWW changes, and whether all workers will continue to be eligible for annual cost of living increases.

(i) LC 178 uses a threshold of 75% of the SAWW to determine the proportion of the worker's wage that is compensated at 75% versus 65%. However, since the SAWW changes annually, those proportions may change, and the worker's temporary disability benefit may change as a result. For example, if the worker had a weekly wage of $1,250, 75% of the SAWW is initially $1,000, and the SAWW increases by 5%:

Initial temporary disability benefit: *$912.50*		**Benefit *after* the SAWW increase: *$917.50***
80% of the worker's weekly wage is compensated at 75% 20% of the worker's weekly wage is compensated at 65%	**SAWW increases by 5%**	84% of the worker's weekly wage is compensated at 75% 16% of the worker's weekly wage is compensated at 65%

The language in LC 178 is unclear on whether the proportion of the worker's wage compensated at 75% versus 65% should change as the SAWW changes, or if it should stay the same throughout the claim.

(ii) Current law provides an annual cost of living (COL) increase for injured workers who are "*…not otherwise eligible to receive an increase in benefits for the fiscal year in which compensation is paid…*" However, if the worker receives an increase in benefits due to the changes noted in (i), the law could be read as meaning those workers are not eligible for COL increases. The language in LC 178 does not clarify whether those workers should receive COL increases.

Legislative history

Has this bill been introduced in a prior session?

☐ No ☒ Yes Senate Bill 705 (2025)

Does this bill amend current state or federal law or programs?

☐ No ☒ Yes ORS 656.210

Is this bill related to a legal decision?

☒ No ☐ Yes

Should another DCBS division review this measure?

☐ No ☒ Yes Division of Financial Regulation

Other impacts

Does this bill have a fiscal impact to DCBS?

☐ No ☒ Yes ☐ Unknown

WCD has an online calculator available to stakeholders for calculating temporary disability payments. If LC 178 is passed, DCBS will need to update the programing for this calculator. Additionally, some of the programming for the division's technical systems and resources will need to be updated.

WCD will also need to update educational materials, bulletins and webpages to reflect the new temporary disability rate.

If Yes or Maybe, which section(s) of the bill trigger the fiscal impact?

Section 1.

Does this bill have an economic impact to stakeholders?

☐ No ☒ Yes ☐ Unknown

LC 178 would apply to claims for temporary total disability compensation for injuries sustained or diseases incurred on or after January 1, 2027. For these claims, all workers would receive a higher temporary disability benefit (compared to current law).

Claims costs for insurers and self-insured employers would increase due to higher benefit payments. This could result in an increase in workers' compensation insurance rates paid by employers.

Overall, workers' compensation system costs would increase, and the higher temporary disability rate will be an ongoing cost. In a draft analysis, the National Council on Compensation Insurance (NCCI) has estimated that shifting to a tiered temporary disability benefit would increase workers' compensation system costs by 3.1% ($25 million).[2]

Sponsors

Senator Taylor, American Federation of State, County and Municipal Employees (AFSCME), Associated General Contractors (AGC)

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[2] This estimate is based on NCCI's October 6, 2025 analysis, provided to the Management-Labor Advisory Committee. The analysis estimates the impact of a scenario that "…*would increase the compensation rate from 66 2/3% to 75% of the injured worker's wage, for all workers' wages up to 75% of the State Average Weekly Wage (SAWW). For any portion of wages above 75% of the SAWW, the compensation rate would decrease from 66 2/3% to 65%.*"

Possible interested stakeholders

Workers, employers, insurers and self-insured employers, service companies, and attorneys.

Public policy topics

☐ Agency operations
☐ Building codes
☐ Financial institutions and lending
☐ Health insurance
☐ Involvement with other agencies
☐ Licensure
☐ Manufactured structures
☒ MLAC legislative review
☐ New program
☐ Nondepository programs
☐ Other lines of insurance
☐ Prescription drugs
☐ Property and casualty insurance
☐ Public records/public meetings law
☐ Rulemaking
☐ Securities
☐ Task force/reports
☐ Worker safety
☒ Workers' compensation system
☐ Other