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Senate Bill 214 (introduced)

Brief summary

1. The bill corrects a reference to the definition of “average weekly wage,” applicable to benefits paid after the death of a worker.
2. The bill specifies that, when an insurer defaults on payment to beneficiaries after the death of a worker, the Workers' Compensation Division may advance funds to the beneficiaries from the Workers' Benefit Fund.

Analysis

What the law currently does

1. ORS 656.204 describes fatality benefits payable to beneficiaries. Most fatality benefits are indexed to the Oregon average weekly wage, and ORS 656.204(7) states that, “As used in this section, “average weekly wage” has the meaning for that term provided in ORS 656.211.” ORS 656.211 defines “average weekly wage to mean “... 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”
2. ORS 656.445 provides that when an injured worker does not receive payment due to an insurer's default, the Workers' Compensation Division may advance funds to the worker from the Workers' Benefit Fund. However, the law does not specify that this process applies to beneficiaries who are not injured workers, such as spouses and children who are entitled to fatality benefits.

What will change if the bill is enacted

1. ORS 656.204(7) will refer to the definition of “average weekly wage” in ORS 656.005, which means “... the Oregon average weekly wage in covered employment ... for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.” Enactment of the bill will align ORS 656.204 with other provisions within ORS chapter 656 and with current practice. Benefits for beneficiaries will continue to be based on the state average weekly wage at the time of the injury, and cost-of-living adjustments will still be provided from the Retroactive Program of the Workers' Benefit Fund under ORS 656.506.

2. ORS 656.445 will specify that beneficiaries are also entitled to the advanced funds if the insurer defaults on the payment of benefits.

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

1. Enactment will align the statute with current practice. No impacts are expected.
2. Enactment will ensure that beneficiaries receive benefits in the period after an insurer has become insolvent, but before the Oregon Insurance Guaranty Association assumes responsibility for the insurer's claims.

Questions/relevant information for the bill sponsor or primary proponent

None

Legislative history

Has this bill been introduced in a prior session?

No Yes Years Bill numbers

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

No Yes Specify The bill amends ORS 656.204 and ORS 656.445.

Is this bill related to a legal decision?

No Yes Case citation, AG opinion, date, etc.

Should another DCBS division review this measure?

No Yes Divisions

Other impacts

Does this bill have a fiscal impact to DCBS?

No Yes Unknown Explain The changes to the advancement of funds to beneficiaries could temporarily impact the Workers' Benefit Fund, however those funds are eventually recouped from the Oregon Insurance Guaranty Association. Therefore, no fiscal impacts are anticipated.

Does this bill have an economic impact to stakeholders?

No Yes Unknown Explain There is an economic benefit to beneficiaries should the responsible insurer become insolvent.

Sponsors

Possible interested stakeholders

Workers, insurers, self-insured employers, attorneys, labor organizations

Public policy topics

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