

BILL SUMMARY
2nd Session of the 52nd Legislature

Bill No.:	SB1973
Version:	Engrossed
Author:	Representative Sullivan Senator Coffee
Date:	3/15/2010
Impact:	Potential Cost Savings: Workers' Comp Court

Bill Summary

Research Analyst: Arnella Karges

Engrossed SB1973 amends numerous provisions of the Workers' Compensation Act, including:

- Permits any Oklahoma labor organization to opt out of the provisions of the act, provided assurance is given that a system for payment of benefits for injuries to employees arising out of employment exists;
- Requires any authorized workers' compensation insurer to maintain an insurance adjuster who resides in Oklahoma;
- Reduces the number in the Oklahoma Workers' Compensation Court (OWCC) from ten to eight, requires five of the judges to be permanently assigned to the Oklahoma City Workers' Compensation Court and three judges be permanent assigned to the Tulsa Workers' Compensation Court;
- Increases OWCC judges' terms from six to eight years, and imposes a single-term limit, provides a grandfather clause for current OWCC judges;
- Requires vacancies on the OWCC to be filed with the advice and consent of the Senate;
- Requires OWCC judges to also have at least five years of workers' compensation experience prior to appointment;
- Reduces the term of the chief administrative officer of the OWCC to four years (rather than six) and to be appointed with the advice and consent of the Senate;
- Creates the position of Medical Director of the OWCC to oversee the medical maintenance of claimants and requires the Medical Director to be licensed to practice medicine in Oklahoma;
- Amends definition of "major cause" to be more than 50% of the cause as established by a preponderance of the evidence;
- Creates the OWCC panel of Special Magistrates composed of three judges appointed by the Supreme Court, the judges cannot have served on the OWCC, but must have at least five years of workers' compensation experience prior to appointment;
- The panel of Special magistrates is authorized to hear appeals and reverse or modify decisions of the OWCC, decisions of the panel are final;
- Requires mediation for any claim and establishes a timeline for the mediation process, currently mediation is on a voluntary basis;
- Provides that mediation completed pursuant to the dispute resolution procedures of a certified workplace medical plan (CWMP) shall satisfy the mandatory mediation requirements;
- Exempts injuries occurring outside the course of employment from coverage under the act and outlines when an employee is considered in the courts of employment;

- Requires that liability be exclusive of all other liability of the employer and any employees except in the case of an intentional tort or where the employer has failed to secure the payment of compensation for the injured employee;
- Requires employers to make a good faith effort to provide a light-duty position for the claimant's same rate of pay, if the claimant refuses such work, the claimant is disqualified for temporary total disability;
- Requires the Administrator to impose administrative penalties for abusive practices and waive payment for medical services to any treating physician who is not in compliance with the act;
- Requires the employee to forfeit his or her permanent award for not complying with the act, without good cause;
- Ends pay for permanent total disability cases once the employee becomes eligible for Medicare;
- Caps pay for permanent partial disability cases at 70% of the employee's average weekly wage, but not to exceed 50% of the state's average weekly wage in effect October 2008, according to a new payment schedule for loss of digits, limbs, sight and hearing and other injuries including hernia and soft tissue injury;
- Requires the administrator to waive payment for medical services for failure to adhere to the current edition of the American Medical Association (AMA) Guides;
- Removes the ability of the Physicians Advisory Committee to make acceptable deviations from AMA's "Guides to the Evaluation of Permanent Impairment" and recommend alternative methods of evaluating permanent impairment;
- Requires treatment guidelines to be based upon the Official Disability Guidelines developed by the Work Loss Data Institute;
- Requires the OWCC to adopt rules requiring authorization from the employer's insurer to the treating physician 48 hours prior to the recommended treatment for an injured employee;
- Authorizes the OWCC to prohibit an insurer and a treating physician from voluntarily discussing treatment; and
- Holds the insurer liable for treatment that is voluntarily given prior authorization and prohibits the dispute of certified or agreed authorized treatment at a later date.

The Title has been stricken on Engrossed SB1973.

The Economic Development and Financial Services Committee struck the Enacting Clause on Engrossed SB1973.

Fiscal Summary

Fiscal Analyst: Marilyn Anderson

Engrossed SB1973 authorizes labor organizations to opt out of the provisions of the Workers' Compensation Act under certain conditions; reduces the number of judges from ten to eight; requires that judges serve only one eight-year term; requires Senate advise and consent for judicial and Administrator appointments; creates the position of Medical Director; re-defines "major cause"; establishes panel of Special Magistrates appointed by the Supreme Court to hear appeals; makes mediation mandatory under certain conditions; authorizes the Administrator to

impose administrative penalties for abusive practices by medical providers; modifies time period for permanent total disability payments; and requires the Court to receive written prior authorization from the employer's insurer to the treating physician prior to non-emergency treatment or services.

Fiscal Analysis

There is a potential for cost savings due to a reduction in the number of judges on the Court, mandatory mediation and other reforms.

Long Term Fiscal Considerations

None

Fiscal Analysis Reviewed By:

Janice Buchanan

House Fiscal Director