

CONFERENCE COMMITTEE REPORT SUMMARY

Measure SB 878

Principal Authors: Representative Sullivan
Senator Sykes

General Subject Matter: Workers' Compensation Code

Sections that contain some of the **Major Differences** between the current law and the Conference Committee Substitute for Senate Bill 878 are as follows:

Section 3: New Law. The Court will consist of ten judges, no more than seven will be assigned to Oklahoma City and no less than three will be assigned to Tulsa.

Section 8: New Law. This section provides for several new definitions as used within the Code.

Section 11: New Law. This section expands and clarifies which employers are exempted under the Code. It provides that the Code will not apply to certain employees including persons employed by employers liable under certain Acts of Congress, persons employed in agriculture who has a certain gross annual payroll, real estate brokers, persons providing services in a medical care or social services program, persons who employ relatives, persons employed by youth sports league, sole proprietors, volunteers, owner-operators, and drive-away owner-operator.

Section 12: New Law. This section clarifies excluded injuries. A compensable injury does not include certain injuries which occur from certain willful acts, willful failure to act, drug use, horseplay, and injuries that do not occur during the employment relationship or in the course of employment.

Section 13: New Law. Requires public state entities to provide workers' compensation benefits, paid out of their respective funds, to employees and certain elected officials and insure against liability for workers' compensation with CompSource Oklahoma. Such entities may self-insure through CompSource Oklahoma. Counties, municipalities, universities, and boards of education may insure against their liability through any combination of listed options.

Section 21: New Law. Requires voluntary mediation to be available to any party to a claim, subject to limitations, and is not a prerequisite to the commencement of claim for benefits. The Court may also order mediation in any case. Procedures for requested mediation and requirements for certified mediators are provided.

Section 26: New Law. In order to prevent doctor shopping by limiting when an injured worker can change from the treating physician chosen by the employer. The employer is required to provide an injured employee with medical care within seven days of actual knowledge of an injury, which will not be an admission of compensability. The physician selected by the employer will become the treating physician. If the employer fails to do so, or in the case of an emergency, the injured employee may select a physician at the expense of the employer. If there

has been a previous contract with a certified workplace medical plan, the employer will select a treating physician from the within the network of such plan and the claimant may apply for a change of physician as set out in such plan.

Where the employee is not covered by such plan, the employee may be granted one change of treating physician for any affected body part. The employer may object and be granted a hearing. A maximum of two changes of physician are allowed in a claim.

Section 27: New Law. Intended to reduce the cost of medical care by 5 percent, the Administrator is directed to develop a new Workers' Compensation Medical Fee Schedule by January 2012 that will establish the maximum rates that medical providers are permitted to be reimbursed for medical care provided to injured workers. The section provides when a new Fee Schedule will be developed and procedures for doing so. Other guidelines for charging and regulating medical rates are provided.

Section 28: New Law. If there has been a previous contract with a certified workplace medical plan, the employer will select a treating physician from the within the network of such plan and the employee may apply for a change of treating physician. Certification procedures for such plans to the State Commissioner of Health are provided. The State Commissioner of Health will implement site visits to inspect certified plans.

An insured may contract independently with a plan to provide workers' compensation insurance if an insurer, except CompSource Oklahoma, fails to provide access to a certified workplace medical plan. If CompSource Oklahoma fails to provide such access to at least three certified plans, the insured may contract independently with a plan.

Section 29: New Law. The Court is directed to create and maintain a list of licensed physicians to serve as independent medical examiners and, at any time, may appoint an independent medical examiner to assist in determining any issue before the Court. Guidelines for maintaining the list, appointing such examiners, and the duties of examiners are provided. After receiving a medical examiners report, the Court is required to submit reasons if it does not follow the opinion of the medical examiner.

Section 33: New Law. The Court will determine permanent impairment or disability and must be supported by medical testimony. A physician's opinion of the nature and extent of permanent partial impairment to must be based on the "American Medical Association's Guides to Evaluation of Permanent Impairment" or other certain subsequent editions (the Guides hereafter). Other requirements for medical opinions related to permanent impairment are provided.

The Physician Advisory Committee may recommend the adoption of a system to evaluate permanent impairment that deviates from the Guides, which may be the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

The section provides a formula in which to award compensation in cases of permanent partial impairment based on the type of injury or body part injured.

Section 38: New Law In an effort to get injured employees back to work faster, injured employees will be entitled to physical rehabilitation services and vocational rehabilitation

services. Vocational Rehabilitation benefits will not be provided to any non documented employee who is unable, by law, to be hired in Oklahoma.

The section requires the Administrator to hire a Vocational Rehabilitation Director to help injured workers return to work. The role, powers, and duties of the Director and the Court are provided to determine if and in what manner the claimant should receive vocational rehabilitation training services. Whenever it is apparent to the Court that the employee's injury will prevent the employee from returning to former employment, the Court may order vocational rehabilitation services, even though the employee remains disabled. No person will be adjudicated to be permanently and totally disabled, unless first having obtained an evaluation through vocational rehabilitation services and such services are limited to 52 weeks and may be extended in certain circumstances.

Section 43: New Law The section creates a formula that limits claims for legal services based on the type of case and disability.

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