

BILL SUMMARY
1st Session of the 54th Legislature

Bill No.:	SB1062
Version:	Engrossed
Request Number:	N/A
Author:	Mr. Speaker, et al.
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Impact:	Not Required

Research Analysis

SB1062 repeals Title 85 of the Oklahoma Statutes in its entirety and creates Title 85A, a new workers' compensation (WC) statute that would establish an administrative WC system, authorize employers to voluntarily opt out of Administrative WC Act under certain conditions and allow for agreements to arbitrate WC claims. The proposed changes in SB1062 would only be applicable to claims filed after January 1, 2014. Claims for injuries or death filed prior to January 1, 2014 would be determined by the WC Court of Existing Claims, under the current law defined in Title 85. The WC Court of Existing Claims would be phased out by November 1, 2017.

85A-Sections 1-119: Creates the Administrative Workers' Compensation Act.

The Act creates a 3-person Commission, appointed by the Governor to serve six year terms. The commissioners would be subject to Senate confirmation and may be removed by the Governor for cause. The Commission is responsible for appointing Administrative Law Judges (ALJs) to conduct hearings and determine claims for compensation under the rules and regulations established by the Commission. The Commission would be responsible for hearing appeals of decisions made by the ALJs. The Commission is also authorized to appoint and fix the compensation of officers and employees and make appropriate expenditures.

The Act also establishes new fee schedules, benefits caps and benefit durations that would affect the assessment of claims and valuation of benefits compared to the current WC system. Assessment of disability would be determined by the 6th Edition of the American Medical Association's (AMA) Guides to the Evaluation of Permanent Impairment and the proposed compensation for TTD, TPD, PPD, PTD and Disfigurement are as follows:

Temporary Total Disability (TTD)= 70% of the employee's average weekly wage up to the 70% of the state's average weekly wage(SAWW) for 104 weeks. The current maximum weekly benefits are 100% of the SAWW with a maximum duration of 156 weeks.

Temporary Partial Disability (TPD) = 70% of the difference between the injured employee's average weekly wage before the injury and his/her weekly wage for performing the alternative work after the injury, but only if that wage is less than the TTD rate. Compensation may not exceed 52 weeks. The current maximum duration for TPD benefits is 156 weeks.

Permanent Partial Disability (PPD) = On exhaustion of temporary total disability compensation or reaching maximum medical improvement, whichever occurs first, if the injured employee is unable to return to his or her pre-injury or equivalent job, the employee is entitled to receive a lump sum equal to 70% of the employee's average weekly wage, not to exceed \$250 for 450 weeks. Currently, PPD minimum weekly benefit is \$150 and the maximum weekly benefit is \$323.

Permanent Total Disability (PTD) = Lump sum equal to 450 times 70% of the employee's average weekly wage or 450 times the SAWW, whichever is less. Currently, PTD benefits are paid until the injured worker becomes eligible for Social Security or for 15 years, whichever is longer.

Disfigurement = Head or face up to \$50,000; no award will be entered until 12 months after the injury.

Furthermore, the Act establishes penalties for WC fraud and creates a WC Fraud Investigation Unit within the Office of the Attorney General (AG). Funding would be provided by the WC Commission and the AG's office is required to submit a funding request report to the Commission quarterly.

85A-Sections 120-133: Creates the Oklahoma Employee Injury Benefit Act.

Under the Act, an employer may voluntarily opt of the Administrative WC Act by becoming a qualified employer. To obtain the qualified-employer status, an employer must complete certain notification requirements, establish a written benefit plan that is comparable to the benefits provided under the Administrative WC Act, pay an annual \$1,500 filing fee and furnish proof to the Insurance Commissioner of the employer's financial ability to pay the compensation. Employers may self-insure or contract with an insurer to supply benefits.

The Act also creates the Oklahoma Option Self-Insured Guaranty Fund and Oklahoma Option Insured Guaranty Fund for the purpose of paying benefits for covered claims in the event an insurer or sponsor of a self-insured plan fails to meet its compensation obligations. For the Insured Guaranty Fund, each insurer is assessed a fee equal to 2% of the premiums collected until the fund reaches \$2,000,000. For the Self-Insurance Guaranty Fund, each self-insurer is assessed a fee at the rate of 1% of the total compensation for PPI awards paid until the fund contains \$1,000,000.

85A-Sections 134-162: Creates the Workers' Compensation Arbitration Act.

The Act would make agreements to arbitrate claims for injuries covered by the Administrative WC Act be valid and enforceable, provided the employer gave notice of an agreement to both the employee and the employer's WC insurance provider and an alternate dispute resolution program is filed with the Commission.

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Fiscal Analysis

Not required.

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Other Considerations

None.