

A-Engrossed
Senate Bill 310

Ordered by the Senate June 9
Including Senate Amendments dated June 9

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires approval of annual budget and certain contracts by board of directors of State Accident Insurance Fund Corporation. Requires board to establish guidelines for lobbying by State Accident Insurance Fund Corporation and to approve requests for legislation made by corporation. **Requires board to establish audit committee and to approve annual plan for internal and external audits of corporation. Requires board to obtain independent audits of work performed by groups or trade associations under certain contracts. Requires board to annually submit budget to specified public officials.** Subjects, with certain exceptions, records of corporation to public records laws and meetings of board to public meeting laws. [*Increases number of members of board of directors.*] Requires Governor to appoint board members in manner reflecting geographic diversity of state. [*Requires board to file annual budget of corporation with Legislative Assembly and Governor.*] Modifies mission of corporation. **Provides that management of corporation and corporation are subject to inherent contempt powers of court.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to management of State Accident Insurance Fund Corporation; creating new provisions;
3 amending ORS 656.702, 656.751, 656.752, 656.754 and 656.774; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The board of directors of the State Accident Insurance Fund Corporation:**

6 **(1) Shall review and approve the annual budget of the corporation.**

7 **(2) Shall review and approve all contracts for:**

8 **(a) The provision of insurance to groups or trade associations; and**

9 **(b) Public relations or lobbying services.**

10 **(3) Shall approve contracts with groups or trade associations only if:**

11 **(a) The contracts are supported by sound business and insurance principles; and**

12 **(b) Payments under the contracts are for specified services.**

13 **(4) May establish criteria for contracts that include, but are not limited to, requiring**
14 **board approval of a contract. If the board does not establish criteria for approval of a con-**
15 **tract, the manager of the corporation may enter into contracts on behalf of the corporation.**

16 **(5) Shall establish guidelines consistent with ORS 171.725 to 171.785 for lobbying activities**
17 **by the corporation and for reporting expenses incurred by the corporation for lobbying ac-**
18 **tivities.**

19 **(6) Shall review and approve requests for legislation made by the corporation.**

20 **(7) Shall establish an audit committee and approve an annual plan for internal and ex-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ternal audits of the corporation.

2 (8) Shall obtain independent audits of work performed by groups or trade associations
3 under contracts that require payments by the corporation in excess of \$100,000 per year. For
4 an audit under this subsection, the corporation shall select an auditor that is on a list of
5 qualified auditors maintained by the Oregon Department of Administrative Services or that
6 is approved by the Division of Audits of the Office of the Secretary of State.

7 **SECTION 2.** (1) Not later than April 15 of each year, the board of directors of the State
8 Accident Insurance Fund Corporation shall submit to the appropriate public officials:

9 (a) The budget adopted by the corporation for the current fiscal year;

10 (b) The budget adopted by the corporation for the previous fiscal year;

11 (c) A summary of the expenditures in the previous fiscal year; and

12 (d) A report covering the activities and operations of the corporation for the preceding
13 year.

14 (2)(a) In an odd-numbered year, the appropriate officials to receive the information re-
15 quired by subsection (1) of this section are the Governor, the President of the Senate, the
16 Speaker of the House of Representatives, the Joint Legislative Committee on Ways and
17 Means and the Legislative Fiscal Officer.

18 (b) In an even-numbered year, the appropriate officials to receive the information re-
19 quired by subsection (1) of this section are the Governor, the President of the Senate, the
20 Speaker of the House of Representatives, the Emergency Board and the Legislative Fiscal
21 Officer.

22 (3) The board shall prepare the budgets, summary and report in a manner:

23 (a) Consistent with the statutory accounting principles of the National Association of
24 Insurance Commissioners; and

25 (b) Approved by the Legislative Fiscal Officer.

26 (4) The Legislative Fiscal Officer shall review:

27 (a) The budgets, summary and report submitted under subsection (1) of this section;

28 (b) The annual reports required by ORS 656.772 and 656.774; and

29 (c) Any notice submitted under ORS 656.776.

30 (5)(a) The corporation shall provide to the Legislative Fiscal Officer any information that
31 the officer requests about the corporation's budget and operations.

32 (b) The manager of the corporation shall, upon request:

33 (A) Assist the Legislative Fiscal Officer in the review under subsection (4) of this section.

34 (B) Assist the Joint Legislative Committee on Ways and Means in evaluating the budgets,
35 report and summary submitted under subsection (1) of this section.

36 (C) Appear before the Emergency Board.

37 **SECTION 3.** ORS 656.702 is amended to read:

38 656.702. [(1) *The records of the State Accident Insurance Fund Corporation, excepting employer*
39 *account records and claimant files, shall be open to public inspection. The accident experience records*
40 *of the corporation shall be available to a bona fide rating organization to assist in making workers'*
41 *compensation rates but any costs involved in making the records available shall be borne by the rating*
42 *organization. Accident experience records of carrier-insured employers shall also be available on the*
43 *same terms to assist in making such rates.]*

44 [(2) *Disclosure of workers' compensation claim records of the Department of Consumer and Busi-*
45 *ness Services is governed by ORS 192.502 (19).]*

- 1 (1) As used in this section:
- 2 (a) "Claimant files" means information held by the State Accident Insurance Fund Cor-
- 3 poration pertaining to a subject worker who has made a claim.
- 4 (b) "Employer account records" means information obtained, developed or used by the
- 5 corporation in connection with providing, offering to provide or declining to provide insur-
- 6 ance to a subject employer, including but not limited to the employer's premium payment
- 7 history, payroll classifications, experience modification factors, loss experience and dividend
- 8 payment history and any information that identifies the employer's employees.
- 9 (c) "Person" has the meaning given that term in ORS 192.410.
- 10 (2) Every person has the right to inspect the records of the corporation.
- 11 (3) Subsection (2) of this section does not apply to:
- 12 (a) Claimant files.
- 13 (b) Employer account records.
- 14 (c) Records or information that would reveal the security measures taken or recom-
- 15 mended to be taken to protect:
- 16 (A) An officer or employee of the corporation;
- 17 (B) Buildings or other property used or owned by the corporation; or
- 18 (C) Information processing, communication or telecommunications systems, including
- 19 information contained in the systems, that are used or operated by the corporation.
- 20 (d) Information of a personal nature, including but not limited to information kept in a
- 21 personal, medical or similar file, if public disclosure of the information would constitute an
- 22 unreasonable invasion of privacy, unless the public interest requires disclosure of the infor-
- 23 mation in the particular instance.
- 24 (e) The addresses, dates of birth, Social Security numbers or telephone numbers of em-
- 25 ployees of and volunteers for the corporation.
- 26 (f) Records or information the disclosure of which is prohibited by federal law or regu-
- 27 lation.
- 28 (g) Employee and retiree addresses, telephone numbers and other nonfinancial records
- 29 maintained by the Public Employees Retirement System pursuant to ORS chapters 238 and
- 30 238A.
- 31 (4) Notwithstanding subsection (3) of this section, for the purpose of making workers'
- 32 compensation rates, a bona fide rating organization has the right to inspect:
- 33 (a) The accident experience records of the corporation; and
- 34 (b) The accident experience records of carrier-insured employers in the possession of the
- 35 corporation.
- 36 (5) Workers' compensation claim records of the Department of Business and Consumer
- 37 Services are not records of the corporation.
- 38 (6) ORS 192.410 to 192.505 do not apply to requests made under subsections (2) and (4) of
- 39 this section.
- 40 (7) The corporation may establish fees reasonably calculated to recover the costs of
- 41 making records available under subsection (4) of this section.
- 42 (8)(a) A person aggrieved by the failure of the corporation to make records available
- 43 under subsection (2) or (4) of this section may seek a determination of rights under ORS
- 44 28.020.
- 45 (b) A person who seeks to review information of a personal nature covered by subsection

1 **(3)(d) of this section has the burden of proving:**

2 **(A) By a preponderance of the evidence that public disclosure of the information would**
3 **not constitute an unreasonable invasion of privacy; and**

4 **(B) By clear and convincing evidence that the public interest requires disclosure of the**
5 **information in the particular instance.**

6 **SECTION 4.** ORS 656.751 is amended to read:

7 656.751. (1) The State Accident Insurance Fund Corporation is created as an independent public
8 corporation. The corporation shall be governed by a board of five directors appointed by the Gov-
9 ernor. Two members shall be chosen to represent the public. Of the remaining three members, [a]
10 **one** board member must be insured by the State Accident Insurance Fund Corporation at the time
11 of appointment and for one year prior to appointment, or an employee of such an employer. **The**
12 **Governor shall appoint members to the board in a manner that reflects the geographic di-**
13 **versity of the state.** Members of the board are subject to confirmation by the Senate pursuant to
14 section 4, Article III of the Oregon Constitution.

15 (2) [No] A member of the board of directors [shall] **may not** have any pecuniary interest, other
16 than an incidental interest which is disclosed and made a matter of public record at the time of
17 appointment to the board, in any corporation or other business entity doing business in the workers'
18 compensation insurance industry.

19 (3) The term of office of a member is four years, but a member serves at the pleasure of the
20 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor.
21 A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make
22 an appointment to become immediately effective for the unexpired term.

23 (4) A member of the board of directors is entitled to compensation and expenses as provided in
24 ORS 292.495.

25 (5) The board of directors shall select one of its members as chairperson and another as vice
26 chairperson, for such terms and with such duties and powers as the board of directors considers
27 necessary for performance of the functions of those offices. A majority of the members of the board
28 of directors constitutes a quorum for the transaction of business.

29 (6) The board of directors shall meet at least once every three months at a time and place de-
30 termined by the board of directors. The board of directors shall meet at such other times and places
31 specified by the call of the chairperson or of a majority of the members of the board of directors.

32 (7) It is the function of the board of directors to establish the policies for the operation of the
33 State Accident Insurance Fund Corporation, consistent with all applicable provisions of law.

34 (8) [*The board shall file with the Legislative Assembly and the Governor, not later than April 15*
35 *of each year, a report covering the activities and operations of the State Accident Insurance Fund*
36 *Corporation for the preceding year*] **Meetings of the board of directors shall be held in compli-**
37 **ance with the requirements of ORS 192.610 to 192.690.**

38 **SECTION 5.** ORS 656.752 is amended to read:

39 656.752. (1) The State Accident Insurance Fund Corporation is created for the purpose of
40 transacting workers' compensation insurance and reinsurance business. The [*State Accident Insur-*
41 *ance Fund*] corporation also may insure an Oregon employer against any liability such employer
42 may have on account of bodily injury to a worker of the employer arising out of and in the course
43 of employment as fully as any private insurance carrier.

44 (2) The functions of the State Accident Insurance Fund Corporation shall be:

45 (a) To confer with and solicit employers and to determine, handle, audit and enforce collection

1 of premiums, assessments and fees of insured employers insured with the [State Accident Insurance
2 Fund] corporation;

3 (b) To make insurance available to as many Oregon employers as inexpensively as may be con-
4 sistent with the overall integrity of the Industrial Accident Fund, in accordance with ORS 656.634
5 and sound principles of insurance;

6 (c) To receive and [handle and process] **promptly, fairly and ethically manage, in compliance**
7 **with relevant statutes**, the claims of **injured** workers and **their** beneficiaries [of workers injured
8 in the employ of insured employers insured with the State Accident Insurance Fund Corporation]; and

9 (d) To perform all other functions [which] **that** the laws of this state specifically authorize or
10 [which] **that** are necessary or appropriate to carry out the functions expressly authorized.

11 (3) The State Accident Insurance Fund Corporation in its name may sue and be sued.

12 (4) The State Accident Insurance Fund Corporation may authorize self-insured employers or
13 other insurers to use any physical rehabilitation center operated by the [State Accident Insurance
14 Fund] corporation on such terms as the [State Accident Insurance Fund] corporation deems reason-
15 able.

16 (5) The State Accident Insurance Fund Corporation in its own name, may acquire, lease, rent,
17 own and manage real property. It may construct, equip and furnish buildings or other structures as
18 are necessary to accommodate its needs. It may purchase, rent, lease or otherwise acquire for its
19 use all supplies, materials, equipment and services necessary to carry out its functions. It may sell
20 or otherwise dispose of any property acquired under this subsection.

21 (6) Any real property acquired and owned by the State Accident Insurance Fund Corporation
22 under this section shall be subject to ad valorem taxation.

23 (7) The State Accident Insurance Fund Corporation may furnish advice, services and excess
24 workers' compensation and employer liability insurance to any employer qualified as a self-insured
25 employer under the provisions of ORS 656.407, on such terms and conditions as the [State Accident
26 Insurance Fund] corporation deems reasonable.

27 (8) With the approval of the Director of the Department of Consumer and Business Services, the
28 State Accident Insurance Fund Corporation may provide reinsurance coverage to Oregon employers
29 on such terms and conditions as the [State Accident Insurance Fund] corporation deems reasonable.

30 **(9) The management of the State Accident Insurance Fund Corporation is subject to the**
31 **inherent contempt powers of the court. The corporation is subject to the inherent contempt**
32 **powers of the court for the actions of the management of the corporation. The management**
33 **of the corporation may not assert sovereign immunity on behalf of the corporation or of a**
34 **member of the management to avoid a monetary sanction or attorney fee imposed by a court**
35 **for contempt. The corporation may not assert sovereign immunity on behalf of the corpo-**
36 **ration or of a member of the management to avoid a monetary sanction or attorney fee im-**
37 **posed by a court for contempt.**

38 **(10) The State Accident Insurance Fund Corporation may enter into agreements with the**
39 **Oregon Department of Administrative Services to provide claim management services for**
40 **claims filed by inmates of the Department of Corrections under ORS 655.505 to 655.555.**

41 **SECTION 6.** ORS 656.754 is amended to read:

42 656.754. (1) The State Accident Insurance Fund Corporation is under the direct supervision of
43 a manager appointed by the board of directors of the [State Accident Insurance Fund] corporation.
44 The manager serves at the pleasure of the board of directors. [The manager shall qualify in the
45 manner provided for board members in ORS 656.716 except that no bond shall be required.]

1 (2) The manager has [*such*] **the** powers [*as*] **that** are necessary to carry out the functions of the
2 [*State Accident Insurance Fund*] corporation, subject to policy direction by the board of directors.

3 (3) The manager may employ, terminate and supervise the employment of such assistants, ex-
4 perts, field personnel and clerks as may be required in the administration of the [*State Accident In-*
5 *surance Fund*] corporation.

6 **SECTION 7.** ORS 656.774 is amended to read:

7 656.774. The board of directors of the State Accident Insurance Fund Corporation shall report
8 to the Secretary of State **and the Legislative Fiscal Officer** by March 15 of each year:

9 (1) The total amount of assets in the Industrial Accident Fund as of December 31 of the prior
10 year;

11 (2) The reserves and surplus that are actuarially necessary according to recognized insurance
12 principles as described in ORS 656.634 (2) and statutory accounting principles published by the Na-
13 tional Association of Insurance Commissioners, excluding any allowance for undeclared dividends;

14 (3) Any funds in addition to those described in subsection (2) of this section; and

15 (4) The total amount of investment gain generated by the Industrial Accident Fund during the
16 prior year ending on December 31.

17 **SECTION 8.** For a contract with a group or trade association that is in effect on the ef-
18 fective date of this 2005 Act, the State Accident Insurance Fund Corporation shall arrange
19 for the completion of the independent audit required by section 1 (8) of this 2005 Act by
20 January 1, 2007. For a contract with a group or trade association that is in effect on January
21 1, 2008, the corporation shall arrange for the completion of the independent audit required
22 by section 1 (8) of this 2005 Act by January 1, 2009.

23 **SECTION 9.** The amendments to ORS 656.752 by section 5 of this 2005 Act apply to con-
24 tempt powers exercised and sanctions and attorney fees imposed on or after January 1, 2004.

25 **SECTION 10.** For purposes of requests to inspect records under ORS 656.702 made before
26 the effective date of this 2005 Act, “employer account records” means information that re-
27 lates to a subject employer’s account with the State Accident Insurance Fund Corporation
28 and that the subject employer submitted to the corporation or that the corporation main-
29 tained on an employer-by-employer basis. “Employer account records” does not mean re-
30 cords kept by the corporation in the ordinary course of business and that incorporate
31 information derived from employer account records, including but not limited to lists of
32 dividends paid by the corporation to employers and lists of premiums paid by employers to
33 the corporation, whether in tabular form or otherwise.

34 **SECTION 11.** This 2005 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
36 on its passage.

37