



# Oklahoma Insurance Commissioner John D. Doak

## Workers' Compensation Reform

**PROTECTING  
OKLAHOMA**

**JOHN D. DOAK**  
INSURANCE COMMISSIONER

**OKLAHOMA  
INSURANCE**  
DEPARTMENT

# OID's Mission

Educate Oklahoma's Citizens, Insurance Professionals and Business Consumers on the new benefits and differences found within the new Workers' Compensation Law.

The materials regarding Oklahoma workers' compensation reform are for general informational purposes. Please contact your attorney or other competent advisor regarding any company specific or individual concern

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## AVERAGE COST PER WORKER

OKLAHOMA	\$830
TEXAS	\$297
ARKANSAS	\$292

*(NCCI Annual Statistical Bulletin [ASB] Exhibit XI)*

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# Overview of new law

S.B. 1062 was signed into law by Governor Mary Fallin and creates Title 85A, a new set of workers' compensation statutes which will fundamentally change the existing workers' compensation system in Oklahoma.

- **Administrative Workers' Compensation Act,**
- **Oklahoma Employee Injury Benefit Act, and**
- **Workers' Compensation Arbitration Act**

# **SB 1062 - Work Comp Reform**

## **Administrative Workers' Compensation Act**

- Establishes the Workers' Compensation Administrative System
  - Which will apply to employees injured on or after February 1, 2014
  - Injuries occurring before this time will be determined by the current Workers' Compensation Court – Which will be renamed The Court of Existing Claims

# New WC Commission

- The new Workers' Compensation Commission - What is its function and who is it?
- The WC Commission is made up of three individuals who must have at least three years of workers' compensation experience
  - Troy Wilson, Sr.
  - Robert H. Gilliland
  - Denise Engle

# New WC Commission

- Commissioners are appointed by the Governor and confirmed by the Senate with input from the Speaker of the House and Senate Pro Tempore
- Commissioners will be appointed to serve a six year term. However the first set of Commissioners will be appointed to fill staggered placements of 2, 4, and 6 years

# New WC Commission

- The WC Commission will have jurisdiction over workers' compensation claims filed under the new act
- The WC Commission replaces the WC Court for all claims filed after 2/1/14
- The WC Commission will oversee claim reporting, data collection and dispute resolution



# New WC Commission

- The Commission will appoint Administrative Law Judges
  - The Commission may review determinations by ALJs
  - Appoint mediators to resolve disputes through voluntary alternative dispute resolution
  - Set up an ombudsman program

# Benefit Levels

- The minimum benefit levels for the Oklahoma Workers' Compensation Administrative System and the Oklahoma Option are the same

Please refer to your handout

# Benefit Limitations

- No benefits for TTD if the employee receives unemployment benefit unless TTD is greater than the unemployment benefit in a disputed claim
- Non-surgical TTD cannot exceed 8 weeks

# Benefit Limitations

- No compensation for “ordinary disease of life”
- Age is not considered in determining change of condition
- Employees given 30 days for injury notification
  - Oral or Written

# Benefit Limitations

- Claim barred unless filed with the Commission within one year
- Claim barred if no treatment or compensation is received within one year of filing with Commission

# Benefit Limitations

- Occupational disease claim barred after two years from last exposure
- Silicosis/asbestosis claims have one year after disablement, which must occur within three years from last exposure

# Benefit Limitations

- Death claims must be filed within two years
- If death doesn't occur within one year from accident or within three years of receiving compensation benefits then a rebuttable presumption arises that the death did not occur from the injury

# Fraud and Penalties

- Employees making false statements to receive worker's compensation are guilty of a felony
- The Attorney General's Worker's Compensation Fraud Investigation Unit will be funded through the Commission
- If an "injured" employee is charged with fraud then all compensation will be halted



# Exclusive Remedy

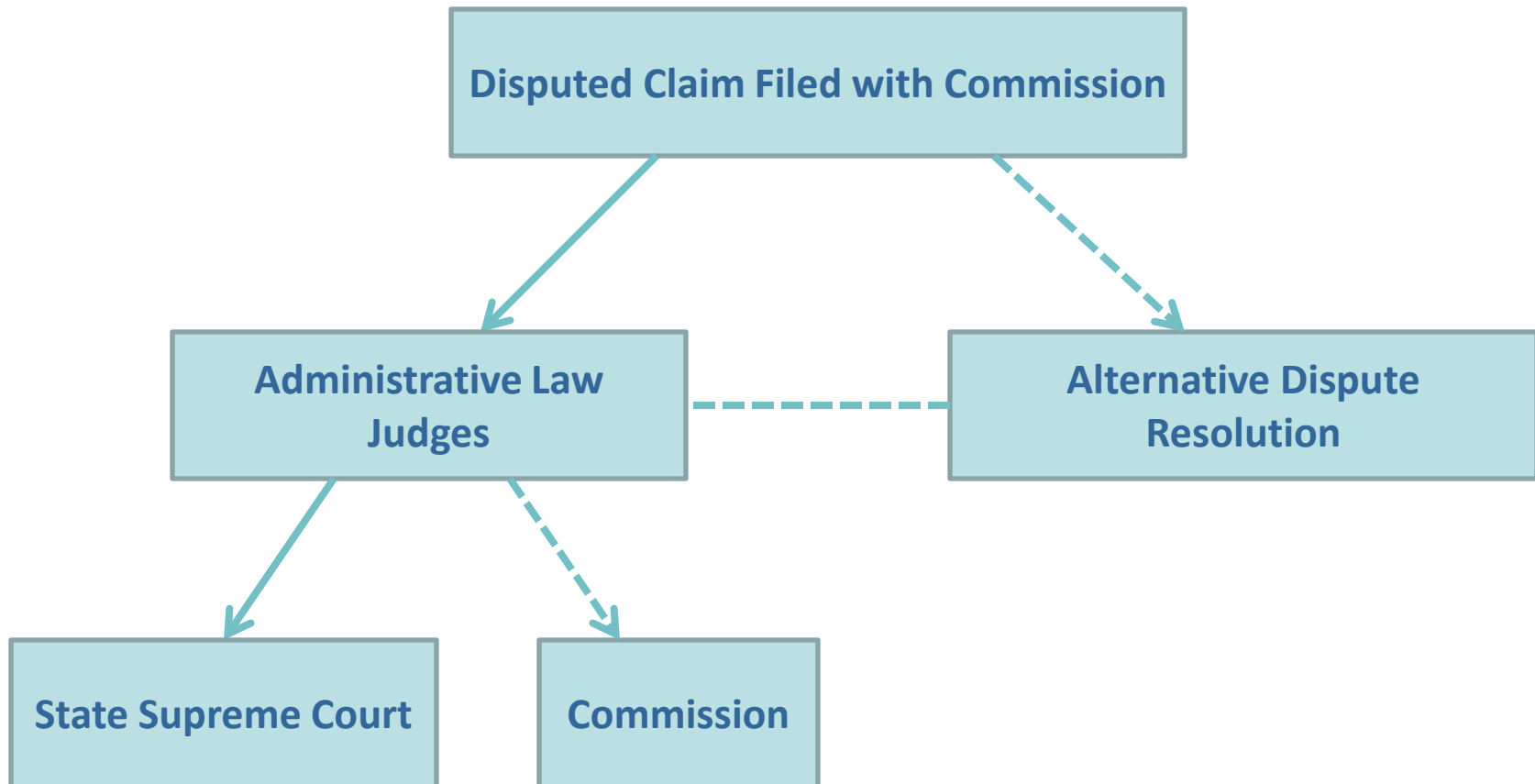
- Exclusive remedy remains under the Administrative System and the Oklahoma Option
- Exclusive remedy does not apply in cases of intentional torts or if the employer fails to pay compensation
- In an intentional tort case employees can choose to pursue their action with either the Commission or the district court but not both

# **Arbitration Process**

## **Workers' Compensation Arbitration Act**

- Employers are allowed to implement an Alternative Dispute Resolution (ADR) program

# Disputed WC Claims



# New Roles

- **Oklahoma Workers' Compensation Court** – will be renamed the Court of Existing Claims on February 1, 2014

# New Roles

- **The Attorney General** – receives anti-fraud funding which will target the reduction of fraudulent WC claims through investigation and prosecution

# New Roles

- **Department of Labor** – still responsible for workplace safety concerns and OSHA compliance
- Now will receive new data to inspect and confirm business owners' workplace injury benefit program in place (WC or Option)

## New Roles

- **Oklahoma Insurance Commissioner** – Continues to oversee the regulation of insurance companies and their representatives
- Now has added rulemaking authority to receive and review requests from employers seeking to become Qualified Employers and to confirm the employers' status as Qualified Employers.

# New Roles

- **Workers' Compensation Commission** – a new entity established to implement the administrative processes for the reporting, payment and resolution of workplace injury benefit claims



# **Oklahoma Employee Injury Benefit Act**

## **— The Oklahoma Option**

# Employer's Choice

- Employers **must** choose either:
  - Workers' Compensation Administrative System, or
  - Oklahoma Option
- Employers **may** choose:
  - Purchase Insurance
  - Self-Insure
  - Employer may use a blend of insurance/self-insurance
  - Employer may also fund programs through a Captive Insurer

# What is a Captive

- An insurance company established for the purpose of financing the risk of their parent group or groups
  - Captives can also insure risks of the group's customers as well
  - For more information visit [www.oid.ok.gov](http://www.oid.ok.gov)



**Oklahoma Captive Insurers**

# Choosing the Option

- An employer interested in leaving the administrative system will need to follow a 5-step process:
  - Submit request to become a Qualified Employer with the Oklahoma Insurance Department
  - Notify all employees of the changes
  - Establish a written benefit plan
  - Pay an annual filing fee of \$1,500
  - Receive confirmation from the Oklahoma Insurance Department

## To Summarize

- Projected to reduce costs (NCCI Scoring)
  - Expected time compression of claims (from inception to resolution)
  - Reduction in TTD and PPD benefit duration
  - Reduction in % of Attorney's fees
- Flexibility for Employers developing benefit plans

## To Summarize

- Desired outcomes of new administrative process is added efficiency, user friendly processes and prompt resolution of disputes
- Greater employment opportunities

**Oklahoma is Open for Business!**

# Q & A

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**1.800.522.0071**

**[www.oid.ok.gov](http://www.oid.ok.gov)**

**Please send additional questions to:**

**WorkComp@oid.ok.gov**

**OKOption@oid.ok.gov**





**Thank you for attending**

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