

WORKERS' COMPENSATION  
MANAGEMENT-LABOR ADVISORY COMMITTEE  
Meeting Minutes

March 16, 2007  
10:00 a.m. – 1:30 p.m.

Conference Room 260  
Labor & Industries Building, 350 Winter Street NE, Salem, OR

***Committee Members Present:***

Sheri Sundstrom, Hoffman Construction Company, Portland, OR  
Linda Jefferson, City of Portland, Portland, OR  
Greg Miller, Gunderson LLC, Portland, OR  
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin, OR  
John Kirkpatrick, IUPAT District Council, Portland, OR  
Tracy Brill, Port of Portland, Portland  
Lon Holston, Grants Pass, OR  
Lisa Trussell, Associated Oregon Industries, Salem, OR  
Bob Shiprack, Oregon Building Trades Council, Tualatin, OR  
Cory Streisinger, Department of Consumer & Business Services, Salem, OR

***Committee Member Excused:***

Ellen Cutler, Harry and David, Medford, OR

**Meeting Agenda:**

**Review Minutes from February 22, 2007 and March 2, 2007 meetings**

A motion was made and seconded to approve the February 22, 2007, minutes as written. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

A motion was made and seconded to approve the March 2, 2007, minutes as written. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

**Report from Legislation Subcommittee on the following bills:**

**SB 504 Requires physician serving as attending physician for workers' compensation claim to be responsible for treatment of worker's compensable injury on ongoing basis.**

Subcommittee report: The subcommittee recommends the department and OSIA continue to work together on the bill language and report back to the committee.

**SB 506 Defines "direct medical sequelae" for purposes of workers' compensation claims.**

Subcommittee discussion: subcommittee recommends this bill be support with the suggested amendments.

Action: A motion was made and seconded to support SB 506 as amended. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

**SB 564 Allows closure of workers' compensation claims if preponderance of evidence supports closure and attending physician fails to provide closing report after request.**

Subcommittee report: Subcommittee recommends the department, OSIA, and labor members of MLAC work together on the bill language and report back to the committee.

**SB 565 Modifies method for determining average weekly wage for worker with more than one job at time of injury.**

Subcommittee report: Recommends addressing this topic in the interim.

**SB 404 Authorizes payment of certain reasonable fees, expenses and costs associated with litigation of workers' compensation claim if claimant prevails against claim denial.**

Subcommittee report: recommends OTLA, management members of the committee, and other interested parties meet to discuss a cap. The subcommittee supports this bill with the cap.

**Proposed Legislation:**

**HB 2218 WCD Regulatory Streamlining** A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

John Shilts, Workers' Compensation Division

Mr. Shilts testified that this is a streamlining bill and gave an overview of the processes being addressed in this bill. He also gave an overview of the –1 amendments.

Committee discussion: None

A motion was made and seconded to support HB 2218 with the –1 amendments. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

**HB 2756 MLAC Care Provider recommendations** A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

John Shilts, Workers' Compensation Division

Mr. Shilts testified regarding the –1 amendments. He provided clarification on the changes the –1 amendments make.

Committee discussion: None

Action: A motion was made and seconded to support HB 2756 with the –1 amendments. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

**SB 560 – Establishes presumption that certain cancers are compensable occupational diseases for firefighters.** A copy of the bill, analysis, and fiscal impact statement were provided to the committee. Copies of proposed amendments were also provided to the committee. The documents are part of the record.

John Shilts, Workers' Compensation Division

Mr. Shilts testified in response to questions raised at the March 2, 2007, MLAC meeting. Mr. Shilts provided a copy of a memo titled “Cases Interpreting and Applying the Firefighter Presumption” and a table entitled “Workers Compensation Claims for Firefighting and fire prevention Occupations Oregon, 1995-2006”. He provided testimony reviewing the data included in the memo and . A copy of the documents are included as part of the record.

Michael Woods, Oregon OSHA

Mr. Woods testified in response to questions raised at the March 2, 2007 MLAC meeting. He provided his observation of the several reports available at this time that have researched and reported on the cancer presumption.

Bob Livingston, Oregon State Firefighters Association

Mr. Livingston testified in support of SB 560 and the importance of the cancer presumption this bill proposes. He provided clarification regarding pre-employment screening/ fitness for duty and how this presumption might affect any bargaining agreements. Mr. Livingston also provided clarification on the number of cancers included in SB 560.

Nelson Hall,

Mr. Hall testified to his experience representing firefighters throughout Oregon. He also provided testimony regarding the proposed legislation.

Hasina Squires, League of Oregon Cities

Ms. Squires provided testimony regarding the number of firefighters that would be affected by SB 560.

George Goodman,

Mr. Goodman testified that he represents League of Oregon Cities’ interests In SB 560. He testified to the effect of the amendments and the unintended consequences of those amendments. He talked about the standards the presumption will set and the legal problems it will cause. Mr. Goodman provided clarification on the effect the lung and heart presumption have had on the standards for proving a claim.

Committee discussion: The committee discussed the proposed amendments and the testimony provided. The committee recommends tabling SB 560 for more discussion.

**HB 3357 (LC 2437) – Modifies conditions under which injured worker may lose reinstatement and reemployment rights.** A copy of the bill, analysis, and fiscal impact statement were provided to the committee. The documents are part of the record.

Mary Botkin, Oregon AFSME

Ms. Botkin testified in support of HB 3357. She provided an example of the situation that this bill would fix.

Chris Davie, SAIF Corporation

Mr. Davie testified in opposition to some of the proposed language and he provided clarification to the impact the language would have. Mr. Davies also clarified that this bill is pointed at the State as an employer but will affect the whole workers’ compensation system.

Committee discussion: The committee recommends the sponsor of the bill meet with the division to clarify some unanswered questions to be sure the bill does not have unintended consequences.

**HB 2805 - Allows payment of workers' compensation benefits to injured volunteer search and rescue personnel of county, city or other municipality if coverage has been elected for volunteer even if employer has no full-time employees performing similar duties.**

HB 2805 was as pulled from the agenda.

**HB 2943 & SB 836 – Requires DCBS to adopt IME Standards of conduct if appropriate regulatory board does not.**

Hasina Squires,

Ms. Squires testified regarding the code of conduct added to statute 656.328 in the last session.

Committee discussion: None

Action: A motion was made and seconded to support HB 2943 and SB 836 with -1 amendments. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

**SB 688 – Modifies meaning of taxicab for purposes of determining who are subject workers.**

Charles Williamson,

Mr. Williamson testified in support of SB 688 and representing Radio Cab Co. and Broadway Cab Co. He described the current system for employing leased cab drivers and the impact this bill will have on the current system.

Steven Eutler, General Manager, Radio Cab Co.

Mr. Eutler testified in support of SB 688 and the financial impact to the company and the leased drivers if in the future the leased drivers are consider a subject employee.

David Gwyther, Radio Cab Co.

Mr. Gwyther testified in support of the proposed bill and provided clarification on the impact to leased driver.

Chris Davie, SAIF

Mr. Davie testified to the criteria for subject worker and the complexity of this area. He talked about the definition of taxi and leased driver, and also the about the medical transport drivers. SAIF is not taking a position on who should be considered a subject worker.

Committee discussion: Discussed that this is not in MLAC's preview. The committee decided not to take a position on this bill.

**SB 690 – Allows employer to adopt comprehensive drug-free workplace program**

Committee discussion: The committee discussed the post accident drug testing section of the bill. The committee decided to carry this bill over to next meeting.

**SB 762 – Modifies maximum amount employer may pay in non-disabling workers' compensation claims.**

Mary Schwabe, Workers Compensation Division

Ms. Schwabe testified to the current statute, which, states the maximum amount an employer can pay in non-disabling claim and the changes this bill proposes. This bill would require the Director hold rulemaking each year to set the maximum amount.

Chris Davie, SAIF

Mr. Davie testified in support of this proposed change and the talked about some technical suggestion to make this a smooth transition if the bill passes.

Action: A motion was made and seconded to support SB 762 with conceptual amendments. A vote was taken and the following members voted aye: Tracy Brill, Greg Miller, Mike O'Rourke, Sheri Sundstrom, Lon Holston, John Kirkpatrick, Bob Shiprack, Lisa Trussell, and Linda Jefferson. Motion passed.

Meeting was adjourned.