

`WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE

Full MLAC Meeting

February 22, 2013
9 a.m. – 10:30 a.m.

Committee Members Present:

Tami Cockeram, City of Hillsboro
Carol Duncan, General Sheet Metal, Clackamas
Paul Goldberg, Oregon Nurses Association, Tualatin
Elana Guiney, Oregon AFL-CIO, Salem
John Mohlis, Oregon Building Trades Council, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Bridget Quinn, NECA-IBEW Electrical Training Center, Portland
Ben Stange, Polk County Fire District No.1, Independence
Theresa Van Winkle, MLAC Committee Administrator

Members Excused:

Patrick Allen, DCBS Director, *ex-officio*
Jaron Sue, Marquis Autumn Hills, Portland
David Andersen, Andersen Construction Company, Portland

Agenda Item

Discussion

Opening
(0:00:00)*

Kathy Nishimoto called the meeting to order at 9:03 a.m.

HB 2634 Discussion

Mark Davison, President of the Oregon Self-Insured Association (OSIA) ([California Alternative Security Fund Press Release](#)) – Mr. Davison introduced the bill concept with an overview, and a whiteboard diagram for illustration. The self-insured fund would replace the bonding requirement already in place for workers' compensation self-insured employers in Oregon. The fund would insure for future claims cost should a participating entity fail or go bankrupt. The fund would operate through a non-profit corporation with oversight from a board staffed by self-insured members, and from the Department of Consumer and Business Services (DCBS). Mr. Davison gave a presentation on a whiteboard regarding this fund concept, addressing some key points:

- The total estimated amount for the fund to cover based on current self-insured company bonding requirements would be approximately \$170 million.
 - The fund would eventually be comprised of a range of financial instruments, such as derivatives (including credit default swaps), cash, bonds, and excess insurance.
 - There are an estimated 96 self-insured employers that would be able to participate. [Members of the OSIA that have participated in California's program](#) have reported positive results. The bill mandates all self-insured employers not in self-insured groups to participate in the fund.
 - As the fund moves toward being fully funded, bonds and excess insurance would
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cover a shortfall in the event of some catastrophic employer failures.

- There would be several layers of oversight, including annual financial reporting to and approval from the Workers' Compensation Division (WCD).
- The fund would be subject to the same rules and audits criteria as other insurers or self-insured employers.
- Claims delay – the fund will be required to make timely payments within the 30-day requirement without a specified delay.
- As written, the fund would not cover penalties and associated attorney fees that were incurred before an employer became part of the fund. Mr. Davison said that, after discussion with stakeholders, this language would be changed to make the fund liable for those penalties.

(0:41:00) Katrina Zitnik, Director of workers' compensation for Costco - Spoke in support of the bill. Costco was able to greatly benefit from the self-insured surety fund structure in California. The costs since 2003 have been greatly reduced. The possible strength of this fund is that as the program reaches full funding, it can absorb large losses without additional assessments to employers, as seen in California

Sheri Sundstrom, Hoffman Construction – Spoke in support of the bill, believes that the program will offer benefits to self-insured employers over time.

(0:46:48) Todd Hennelly ([Written Testimony](#), [Supporting Documents](#)) - Spoke in opposition of the bill. He believes that a self-insured fund is a good idea, but that the proposed bill would create a bifurcated system of haves and have-nots. Publicly traded companies would benefit greatly from the fund, but many smaller self-insured companies would be excluded from eligibility, including S-corporations, LLC's, other non-publicly traded companies, as well as self-insured groups. With California as an example, 25-30% of self-insurers are unable to participate in that fund. The board of governors for the fund would be made up of members only, but Mr. Hennelly feels that the board should have members that are experts in the types of investments that would be used by the fund. He said that the fund would discriminate against smaller companies.

(1:09:33) Quentin Hills, MMC Securities (speaking on the phone) - there are two groups that are excluded in California's systems, in addition to companies that are excluded due to the inability to qualify in general to be a self-insured employer due to lack of financial robustness. The fund would instead help smaller employers by giving them the opportunity to self-insure when they may not be able to qualify for credit from banks. The more diversity of members the fund has, the stronger it would be, so there would be no reason to purposefully exclude otherwise qualified companies, small or large. Groups are excluded, but only because of the difficulty of rating them – individual members of groups would still have the ability to apply to the fund and remove themselves from a group if they wish.

Mr. Davison handed out some [letters of support for the bill from Oregon self-insured employers](#). He added that companies that have poor credit ratings still need to post a bond as they would before a fund was in place – companies with a good

credit standing would most likely end up paying less over time, and companies without would pay about as much as they did before.

Closing
(1:29:15)

Kathy Nishimoto adjourned the meeting at 10:32 a.m.

*These minutes include time stamps from the meeting audio found here:
<http://www.oregon.gov/DCBS/MLAC/audio.shtml> .

**Referenced documents can be found on the MLAC Supporting Documents page here:
<http://www.oregon.gov/DCBS/MLAC/pages/support.aspx>