WORKERS' COMPENSATION

MANAGEMENT-LABOR ADVISORY COMMITTEE

Full MLAC Meeting

February 6, 2014
8:30 a.m. – 9 a.m.

Committee Members Present:
Tami Cockeram, City of Hillsboro (via telephone)
Elana Guiney, Oregon AFL-CIO, Salem
John Mohlis, Oregon Building Trades Council, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River (via telephone)
Bridget Quinn, NECA-IBEW Electrical Training Center, Portland
Jaron Sue, Marquis Autumn Hills, Portland (via telephone)
Patrick Allen, DCBS Director, *ex-officio*
Theresa Van Winkle, MLAC Committee Administrator

Members Excused:
Carol Duncan, General Sheet Metal, Clackamas
Paul Goldberg, Oregon Nurses Association, Tualatin
Ben Stange, Polk County Fire District No.1, Independence

Agenda Item	Discussion
Opening (0:00:00)	John Mohlis called the meeting to order at 8:35 a.m.
Review and Possible Action on 2014 Legislative Concept Proposals (0:00:34) SB 1558 -2 Amendments (0:03:37)	Theresa Van Winkle, Committee Administrator, informed the committee that the special meeting regarding SB 1558 had been called at Senator Beyer's request in order for MLAC to provide thoughts to the committee on the -2 amendments. Tami Cockeram asked to clarify that the Department of Consumer and Business Services (DCBS) had worked with stakeholders in drafting the -1 amendments. Ms. Van Winkle stated that yes, all protocols were followed regarding stakeholders, and regarding self-insured groups in particular. Ms. Cockeram asked if DCBS and the stakeholders had participated in the development of the -2 amendments. Ms. Van Winkle indicated that while she could not speak for the proponents of the amendments, DCBS was informed that the amendments had been sent to Legislative Counsel for drafting on January 30th. Todd Hennelly, President, Empire Pacific Risk Management provided written testimony regarding the -2 amendments. Empire Pacific administrates two of the three private entity self-insured employer groups (SIGs). Mr. Hennelly indicated that in addition to speaking for

	Empire Pacific he was also speaking on behalf of the Oregon Operators, which is a self-insured group for McDonalds. He stated that while the -1 amendments covered most of the necessary items, -2 amendments more accurately reflect the improvements desired by the private self-insured groups. One issue regarding the -1 amendments is that if a SIG decertifies this year there are certain expenses that would be incurred which would be unfunded by the structure of the bill, such as specific contractual obligations. He stated that SIGs work more like mutual insurance companies than stand alone insurers. Additionally, he is concerned that the bill is too narrow in scope and that it allows the DCBS Director to do certain things regarding claims payment but does not consider expenditures incurred by the SIGs to manage unfunded liabilities. The SIGS are also requesting some date changes to the bill specifically to account for excess contract expiration dates.
(0:09:44)	Ms. Cockeram asked if groups would be liable for those same expenses if they did not decertify. Mr. Hennelly stated that they would, but under those circumstances the liabilities would be funded rather than unfunded. Decertifying toward the end of the year rather than in July would mitigate some of these costs and decrease overall costs of unwinding decertified programs. The -2 amendments push the deadline dates out so that members are able to find alternate workers' compensation coverage and fund these obligations. Other items of concern include authorizing the DCBS Director to assess civil penalties for stakeholder noncompliance and issues regarding the common claims fund, which is not part of the dedicated securitization currently depicted. Currently funds dedicated to future claims are part of the securitization. Moving dates might not seem like a material change but they are in terms of unfunded potential liabilities and so that either SIGS or the DCBS Director could levy assessments dedicated to program administration.
(0:16:33)	Kathy Nishimoto asked how the -2 amendments benefit injured workers. Mr. Hennelly stated that provided those workers continue working for the same employers the -2 amendments don't limit anything. Self-insurance is a benefit to the employer because it allows them to go into the marketplace to obtain workers' compensation coverage and reduce costs. If employers can reduce costs arguably that is good for the employee.
(0:19:27)	Ms. Cockeram asked to whom deposits would be returned following group decertification as discussed on page 2 of the -2 amendments. Mr. Hennelly indicated that a decertified group would still be a going concern with continuing responsibilities to stakeholders. With the -2 amendments the group would use those returned assets to continue claims administration or administrative aspects of running the group. Ms. Cockeram asked for clarification that the deposits would not be

(0:23:30) (0:27:33)	returned the to the group members. Mr. Hennelly stated that the SIG is a separate corporation and that the proposed returned deposits would be returned to the group, not to the individual member businesses. Elana Guiney asked for clarification regarding using assessments for injured worker clams vs. other expenses such as other liabilities of the groups and if there would be an impact on the Workers' Benefit Fund. If so, how would that increase the time needed to rebuild the worker benefit fund? John Shilts, Administrator, Workers' Compensation Division (WCD) stated that it would expand the Workers' Benefit Fund liability or would have potential to do so. The impact on the length of time to rebuild under these circumstances is not known, but it would not shorten it and could possibly lengthen it. Ms. Guiney asked how significant that increase might be. Mr. Shilts indicated that the analysis has not as yet been that specific, but that the amount covered by the Workers' Benefit Fund would be for claims and claims administration, and that adding in the administrative liabilities of group would likely add to the time needed to rebuild the Workers' Benefit Fund. WCD would need to create different models for various scenarios based on how many groups chose to decertify, etc. He further stated that the idea of the original bill is that claims costs plus associated costs would be covered by the Workers' Benefit Fund, and that the change implemented by the -2 amendments is that administrative liabilities of the group would be added. Mr. Hennelly added that he sees one of the weaknesses of the bill that it limits the director's ability to assess for claims processing agent. There is no mechanism within the bill to allow for the DCBS Director or for groups to assess for non-claims related costs.
Committee Discussion (0:30:28) (0:31:02)	John Mohlis reviewed the committee's previous decision to recommend the adoption of SB 1558 with the -1 amendments, and asked if any committee members wished to change their vote on that action. No members indicated that they wanted to change their votes. Theresa Van Winkle, Committee Administrator, clarified the committee's intent to recommend SB 1558 with the -1 amendments. Committee members indicated that this was their intent. Ms. Van Winkle informed the committee that she would send an email regarding the February 7 committee meeting, as she would know what bills the Senate committee intended to hear later in the afternoon.
Meeting Adjourned (0:31:55)	John Mohlis adjourned the meeting at 09:07 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