

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full Committee Meeting

April 2, 2021
1:00 a.m. – 3:00 p.m.

Committee Members Present:

Alan Hartley
Kimberly Wood, Wood Risk Management Services
Diana Winther, IBEW Local 48
Lynn McNamara, Paladin Consulting
Kathy Nishimoto, Duckwall Fruit
Andrew Stolfi, DCBS Director, *ex officio*
Kevin Billman, United Food and Commercial Workers
Jill Fullerton, Clackamas County Fire Department
Tammy Bowers, May Trucking

Committee Members Absent:

Ateusa Salemi, Oregon Nurses Association
Scott Strickland, IOUE Local 701

Staff:

Theresa Van Winkle, MLAC Committee Administrator
Jeffrey Roddy-Warburton, MLAC Assistant

Agenda Item	Discussion
Opening (0:00:00)	Kimberly Wood opens meeting at 1:01 p.m. Theresa Van Winkle does roll call. MLAC will hold off on approving the March 5 and March 26, 2021 meeting minutes until later in the meeting, Theresa Van Winkle adds that Lynn McNamara and Kimberly Wood did provide some edits to the minutes.
(0:03:00) Report on SB 489 subcommittee	Kimberly Wood gives a report on the MLAC subcommittee meeting on SB 489 that was earlier that morning. Kimberly Wood states that basis of the meeting was to set up some time frames for the involved parties to meet by April 6, 2021, and management stakeholders will provide language to OTLA to address issues in the current bill as well as language for other items if they desire. Kimberly Wood states that on April 8, 2021, MLAC will have another subcommittee meeting on SB 489. Kimberly Wood adds that after the comments are submitted to OTLA hopefully management and labor will have a chance to talk and come to a consensus quickly.
(0:05:00) Meeting minutes	Kimberly Wood begins discussion on MLAC meeting minutes and looks for a motion to approve the March 5, 2021 minutes. Kevin Billman moves, Alan Hartley seconds. All MLAC members present vote to approve the March 5, 2021 meeting minutes, with corrections from Lynn McNamara

and Kimberly Wood. Alan Hartley moves to accept the March 26, 2021 minutes, Lynn McNamara seconds. All MLAC members present vote to approve the March 26, 2021 minutes.

**Legislative
Review**
(0:07:00)

Kimberly Wood asks if Mr. Selvaggio from UFCW is present. Theresa Van Winkle informs the committee that WCD let stakeholders know that neither [SB 801](#) or SB 802 will be moving forward but [Mr. Selvaggio and United Food and Commercial Worker's testimony is posted on the MLAC webpage](#) as well as a [4/2 update from UFCW](#). Kimberly Wood states since those bills are not moving forward we will not be covering them today in the MLAC meeting.

HB 3188
(0:07:40)

Kimberly Wood moves on to [HB 3188](#) with the [-1 amendments](#). Kimberly Wood asks if Benjamin Debney would like to give his testimony. Benjamin Debney, Wallace, Klor, Mann, Capener, and Bishop responds that he would like to defer at this time because he believes there has been some consensus, [Benjamin Debney does provide written testimony](#). Kimberly Wood asks if Elaine Schooler would like to help MLAC understand where SAIF's position is right now.

Elaine Schooler, SAIF states after reviewing the updated analysis and [memo from WCD](#) that included some draft amendment language that would clarify a subject worker versus worker for the purpose of the independent contractor piece, SAIF can get behind this proposal and move forward. Elaine Schooler said it is her understanding that there was a suggestion from Andy Graham with respect to the casual labor aspect of the subject worker exclusions that is currently capped at \$500, and the suggestion to increase that to a higher amount to stay consistent with inflation because it has not been adjusted for many years. Elaine Schooler states that one suggestion was to make it \$1,000 with the potential to adjust based on the state average weekly wage.

(0:11:00)

Diana Winther states that she appreciated the consideration to change with inflation to address the ever-increasing cost of services. Diana Winther asks who do we ask to draft what the inflation index might look like. Theresa Van Winkle states that she believes there is some standard language that Legislative Counsel uses for inflation and some references in 656, WCD will look into that.

(0:12:40)

Kimberly Wood asks if SAIF would be willing to talk directly to Representative Holvey to make sure he is in the loop before we start to do too much on this topic. David Barenberg, SAIF responds yes, we are happy to do that, or we can find out from Theresa Van Winkle who would be the best party to speak to him. Theresa Van Winkle responds yes, she can take care of that.

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- (0:13:30) Elaine Schooler states the amendment is part of WCD’s most recent analysis, so that can be accessed and provided moving ahead with HB 3188 and the proposed change to it.
- SB 489**
(0:14:00) Kimberly Wood begins the discussion on SB 489 and asks Benjamin Debney if he would still like to give his testimony. Benjamin Debney responds that having the discussion on how to move forward, he would support having a timeline and working things out quickly, because we have days not weeks or months to get things done.
- (0:15:20) Diana Winther states that she would like to give everyone time to make sure everyone is on the same page but also to do so in a timely fashion so that we have time to vote. Kimberly Wood asks if we are looking to have another full committee meeting April 9, 2021. Diana Winther states that she doesn’t have a particular date in mind but we can do a poll to find out. (MLAC meeting was scheduled for April 9, 2021). Theresa Van Winkle states that April 13, 2021 is the deadline for all bills in first chamber to be voted out by committee, unless there is an exception.
- HB 3188**
(0:17:00) Andy Graham, Cummins, Goodman, Denley, and Vickers, gives his testimony on HB 3188 and shares some of his concerns including the \$500 casual labor threshold that has not been modified for over 25 years. He also adds that adjusting who we call workers and subject workers under the statute might make sense and sort of a housekeeping measure. Andy Graham states adjusting it to \$1,000 sounds about right and so does tying it to the state average weekly wage so that it would adjust each year. Andy Graham adds that we also do not want to inadvertently capture people’s work who should not be captured through this change. Kimberly Wood asks if Andy Graham would be willing to work on what the adjustment to average weekly wage may look like. Andy Graham responds yes, there is certainly multiple examples in the statue that he can pattern.
- Meeting Attachments MLAC Webpage:
- [WCD follow up on SB 801](#)
 - [HB 3188 follow up information from WCD](#)
 - [Roseburg Forest Products](#)

Meeting Adjourned Kimberly Wood adjourns the meeting at 1:22 p.m.

*These minutes include time stamps from the meeting audio found here:
<https://www.oregon.gov/dcbs/mlac/Pages/2021.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:
<https://www.oregon.gov/dcbs/mlac/Pages/2021.aspx>