

WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
Full MLAC Meeting
January 26, 2018
10 a.m. - noon

Committee Members Present:

Aida Aranda, Oregon and Southern Idaho Labor-Employers Training Trust { via teleconference }
Kevin Billman, United Food and Commercial Workers { via teleconference }
Guy Boileau, Louisiana-Pacific Corporation
Tammy Bowers, May Trucking
Alan Hartley, Shari's Restaurants
Lynn McNamara, CityCounty Insurance
Ateusa Salemi, Oregon Nurses Association { via tele-conference }
Kimberly Wood, Perlo Construction
Theresa Van Winkle, MLAC Committee Administrator

Committee Members Excused

Diana Winther, IBEW Local 48
Cameron Smith, Acting Director, *ex-officio*

Meeting Participants:

Lou Savage, Workers' Compensation Division
Gary Helmer, Central Services Division

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Opening (0:00:00)	Guy Boileau opened the meeting at 10:00 a.m.
Worker's Benefit Fund report (0:00:53)	<p>Lou Savage, Worker's Compensation Division, provided the report required under ORS 656.790 on the Worker's Benefit Fund.</p> <ul style="list-style-type: none">▪ The high level view is that the fund is in good shape.▪ There are a few items that will increase expenditures. When the economy grows, the number of claims increases demand for return to work services. 2017 legislation increasing Permanent Total Disability benefits and fatality benefits will increase.▪ Until 2014, the required fund balance was 12 months of expenditures. That was lowered in 2016 by SB 1558 to six months of expenditures. The fund currently has 22 months of expenditures.▪ There is a caution because the cents per hour is directly related to how the economy is functioning.▪ In 2006 the cents per hour rate was reduced; and in combination with the recession, dramatically reduced the fund balance. In 2013 the department increased the assessment. We want to avoid hills and valleys to allow predictability of costs for employers and workers.
	<p>Guy Boileau asked whether we have a sense of what you're going to do in 2018?</p> <p>Mr. Savage responded no.</p> <p>Gary Helmer, Economist, Department of Consumer and Business Services. The current assessment is 2.8 cents per hour. When we looked at it last fall, we talked</p>

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	<p>about lowering the rate. However we were concerned if there was a recession, we'd have to increase the rate the next year. The current estimates suggest a to 2.7 cents per hour, but that is not an even number and causes problems with collections. If the economy stays as is with no recession, there are two big programs paid by fund. One is the retroactive program which pays fatal benefits. Most claims are from injuries prior to the mid 1980s. We are paying surviving spouses, and those are going down by 100 claims per year and there are a small number of new claims per year. The other program is return to work programs. With the economy growing, that should increase demand on return to work programs, though usage is a bit under what was forecast. We are not sure the reasons, but the economic demand for workers may be strong whether or not the program is available. Regardless, we continue to expect some increase in costs. His opinion is that the rate could be lowered to 2.6 cents per hour next year and that would be stable for the time being, so long as things stay about the same.</p> <p>Guy Boileau asked if the department is paying down the fund? Mr. Helmer responded that would keep the fund balance essentially the same. There is a legislative requirement that MLAC look at the fund balance prior to 2019 to determine the appropriate balance. We tried to bring down the fund balance in 2006, but in combination with the recession we dramatically reduced the fund balance.</p> <p>Mr. Savage commented that it is a balance between having a reasonable fund balance but not having to raise the assessment again.</p> <p>Kimberly Wood asked if the fund can be reverted to the General Fund? Mr. Helmer said that it stays in the account, but the legislature can and has swept money from the fund. Mr. Savage indicated the legislature would have to act to do so.</p> <p>Guy Boileau said we'll be talking about this topic again sooner than later? Ms. Van Winkle indicated that is correct and if the balance needs to be changed the department will have to seek legislation to adjust it.</p>
Meeting minutes (0:12:00)	Lynn McNamara moved to approve the minutes from the Jan. 9, 2018 meeting and Kimberly Wood seconded. All members present voted aye.
Subcommittee on Paid Leave Report (0:12:36)	<p>Theresa Van Winkle reviewed the subcommittee purpose. There were two bills in 2017 legislative session which removed all types of paid leave from the calculation of workers' compensation premium. During debate during MLAC and other venues, it was believed that there would not be a positive impact on premiums. Instead of having bill go forward in the legislature, MLAC agreed to look at the issues further. Ms. Van Winkle reviewed the points discussed at the subcommittee meeting in November. Due to the subcommittee being comprised mostly of management members, it was requested that there be a robust discussion at the full committee before voting.</p> <p>Guy Boileau asked if there committee needs to go through the meeting discussion again.</p> <p>Ateusa Salemi commented that she remembered the 2017 discussion. There is so much complexity and that if you make one change it can result in a domino effect.</p>

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Agrees with the subcommittee recommendation and that there should be more education and outreach so that employers understand the impact. Ateusa asked if the bills will come back?

Ms. Van Winkle said she has not heard. The proponents of the bill did not come to the subcommittee meeting. Also, beyond looking at this issue the committee asked for more information and education about how premiums are calculated.

Kevin Billman said he agrees with the direction and the subcommittee recommendation.

Aida Aranda also agreed with the subcommittee recommendation.

Guy Boileau moved to accept the recommendation of the subcommittee which is to retain the status quo on premium calculation. Lynn McNamara seconded the motion. All members present voted aye.

**Legislation
Review
(0:18:37)****[House Bill 4093 \(LC 146\)](#) – amateur athletes**

Theresa Van Winkle reviewed the bill and prior bills from 2017 on similar issue. The bill modifies employment law regulating amateur athletes. MLAC approved the prior bills. HB 4093 is slightly different because it makes a more explicit exception for amateur hockey players.

Guy Boileau requests testimony from Kevin Anderson.

Kevin Anderson, attorney Sather Byerly & Holloway, commented on a local news story about a Canadian hockey and a lawsuit regarding employment status of amateur hockey players, in relationship to being paid minimum wage. The story was not about this bill in particular. The story indicated the team structure is that all players are 16-20 years old and it is a feeder program to professional level. He does not know what type of scholarships or other things are offered to the players.

Guy Boileau asked if the players are being paid? Mr. Anderson indicated that the team is managed by the Canadian Hockey League.

Guy Boileau asked clarification of how the lawsuit applies to local team.

Theresa Van Winkle indicated there is [written testimony](#) from Tim Bernasek from the Winterhawks, but it is not specific to the compensation question. She indicated the lawsuits may be under appeal. The league is looking to change employment law in the states where they have teams, such as Washington State, and they may be working on other states.

Alan Hartley asked who pays for the care if a player is injured. Ms. Van Winkle said she believes the team pays or their parents policy pays.

Tammy Bowers said on page 4 of the legislative concept says they receive no remuneration other than room, board, lodging, and other reasonable incidentals.

Ateusa Salemi cited the example of her local team Tri City Americans. A colleague

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is involved with the team. They are provided some type of per diem and live with local families.

Guy Boileau wants to confirm if there is remuneration.

Alan Hartley indicated his concern is if they are injured, are medical bills covered?

Guy Boileau announced that the committee will hold off on a vote pending follow up with proponent with the answer to Alan's question.

SB 1534 (LC 48) – home care workers

Theresa Van Winkle said this bill is outside the typical MLAC preview, but it does amend chapter 656 so this is just informational. The bill creates a training requirement for home care workers. Sections 28 and 29 amend chapter 656 and are just conforming amendments to ensure the “personal support workers” are covered by workers’ compensation insurance. Ms. Van Winkle indicated that SAIF covers the workers.

SB 1535 (LC 218) – average wage calculation

Theresa Van Winkle explained this bill is on the agenda for information at this time. The bill changes how average wage calculations for temporary disability benefits. However, the bill was not drafted in the manner the proponents wanted. The proponent is working on amendments. The department is doing rulemaking to address this issue, and if that process moves forward the bill will not move forward.

Guy Boileau commented on the current rulemaking process and noted the next meeting is on February 1 at 9 a.m.

Theresa Van Winkle is not sure whether the bill will have a hearing.

Tammy Bowers asked for clarification on whether the committee will vote on this version. Ms. Van Winkle clarified there is no vote today.

Department Updates (0:31:00)	Theresa Van Winkle noted that MLAC meetings are penciled in to meet every Friday at 10 a.m., only meeting as necessary and could be adjusted if needed. Since meetings are short, members can participate by phone so long as public can join the meeting in a public space.
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Meeting Adjourned (0:33:00)	Guy Boileau adjourned the meeting at 10:33 a.m.
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*These minutes include time stamps from the meeting audio found here:

<http://www.oregon.gov/dcbs/mlac/Pages/2018.aspx>

**Referenced documents can be found on the MLAC Meeting Information page here:

<http://www.oregon.gov/dcbs/mlac/Pages/2018.aspx>