

WORKERS' COMPENSATION  
MANAGEMENT-LABOR ADVISORY COMMITTEE  
**Full Committee Meeting**

January 21, 2021  
9:30 a.m. – 11:30 a.m..

***Committee Members Present:***

Jill Fullerton, Clackamas County Fire Department  
Scott Strickland, IOUE Local 701  
Margaret Weddell, Labor Representative  
Tammy Bowers, May Trucking  
Sara Duckwall, Duckwall Fruit  
Lynn McNamara, Paladin Consulting  
Matt Calzia, Oregon Nurses Association  
Patrick Priest, Citycounty Insurance Services  
Andrew Stolfi, DCBS Director, *ex officio*  
John McKenzie, JE Dunn Construction

***Committee Members Excused:***

Marcy Grail, IBEW Local 125

***Staff:***

Theresa Van Winkle, MLAC Committee Administrator  
Cara Filsinger, Senior Policy Analyst, Workers' Compensation Division  
Jeffrey Roddy-Warburton, MLAC Assistant  
Brittany Williams, MLAC Assistant

<b>Agenda Item</b>	<b>Discussion</b>
<b>Opening 00:18</b>	Patrick Priest opened the meeting. Quorum was reached and committee members introduced themselves
<b>08:04</b>	Lynn McNamara moved and Tammy Bowers seconded the motion to approve the April 21, 2021 meeting minutes with corrections sent by Tammy to staff The minutes approved by unanimous voice vote. Theresa Van Winkle reviewed the committee's new handbook and calendars will be shared and posted.
<b>Department Updates 9:15</b>	Theresa gave a brief explanation about the MLAC member handbooks and where to find information relating to MLAC meetings and procedures, as well as meeting reference materials.
<b>11:44</b>	Justin Fuller, DCBS Chief Economist, shared the <a href="#">Workers' Benefit Fund (WBF) report</a> and <a href="#">7<sup>th</sup> PPD update via PowerPoint</a> . These were shared with members and saved on the MLAC website.

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- 24:22** Jill Fullerton asked why the number of injuries have changed but the amount paid out has remained the same. Justin Fuller responded to the question.
- 37:47** Sara Duckwall asked if we would need to do readjustments to meet the 2025 fund balance goals.
- 41:22** Andrew Stofli commented that the WBF reports are reviewed every year and they had discussed raising the assessments this year and decided against it but will continue to keep MLAC updated as these reviews happen and changes are made.
- 42:50** Scott Strickland asked if the division could correlate information on the decline of injuries as it compares to other data such as OSHA data to see if other factors could be determined. Justin Fuller said that we do keep data that is organized by industry and that we would be happy to share that upon request.
- LC 96**  
**44:15** Representative Dacia Grayber introduced LC 96 to the group as she is a chief sponsor of this bill in legislature which builds upon 2008 legislation. Rep. Grayber testified that per the CDC, cancer is the number one killer of firefighters, Oregon is one of eight states that does not include bladder cancer as a presumptive condition. Currently if male firefighters contract reproductive cancers, those cancers are included in the presumption, however reproductive cancers in female firefighter are not. Rep. Graber stated that in the legislature there is wide bipartisan support of the bill.
- 50:39** Jill Fullerton asked if we had information in regards Oregon’s comparison with reproductive cancers to other states. Rep. Grayber responded she does not have these numbers but her office will gather that information to share. Rep. Grayber also noted that only six percent of the firefighter populations in Oregon are female so sample sizes are small.
- 51:46** Margaret Weddell asked if Portland Fire and Rescue who are not covered by the state workers’ compensation system, would be impacted by this bill. Rep. Grayber responded that lawyer Nelson Hall will speak on this later.
- 53:10** John McKenzie asked what are the cancer causing agents? Is this a chronic exposure or prolonged exposure? Rep. Grayber answered that exposures are both chronic and documented and shared a few key carcinogenic compounds that firefighters are routinely exposed to.
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- 54:52** Sam Hutchison, City of Portland Fire and Police Disability and Retirement Bureau, mentioned that this would cover any large cities with groups that have their own workers' compensation plans.
- 55:59** Tammy Bowers asked a question of Sam Hutchinson if the City of Portland Fire and Police Disability and Retirement Bureau is supporting this legislation. Sam answered they are supporting this legislation and mentioned that they would like to see more medical studies of all of the listed cancer types are linked workplace exposure.
- 58:28** Rep. Grayber mentioned that there are studies on bladder cancer and breast cancer is already included in the law. But that studies on firefighters are still limited and those for female firefighters are extremely rare, there are currently a number of studies in progress noted in the research for this legislation.
- 1:00:40** Karl Koenig, [Oregon State Firefighters Council](#), discussed the 2008 legislation only included male reproductive cancers and this legislation would bring equity to the coverage to Oregon's 276 female firefighters. 42 of 50 states currently list bladder and urinary tract cancer under a presumption. This is an easy fix with a far reaching impact. Urges a yes vote in committee.
- 1:06:06** Lynn McNamara echoes Tammy's previous comments about being interested in seeing the data listed and studies mentioned in Karl's testimony. Karl mentioned that he would be more than happy to share that information with the committee and will defer to Nelson Hall for specific information.
- 1:08:23** John McKenzie also requested seeing the data as well as seeing information about the preventative measures that are being taken to limit these exposures. Karl Koenig responded that mandated physicals are key to their prevention. Turn out gear has also evolved to be more protective and would be more than happy to send out the current guidelines and requirements for cleaning gear as well as providing additional guidelines for gear so that everything is kept in working order.
- 1:11:58** Nelson Hall, attorney, describes evidence based reasoning for including these conditions in the presumption. This legislation would not change the presumption. The bill is adding two types of cancer to the presumption and does not mean that we are changing the presumption or go back to the legislation or editing. Nelson provided an example of a Salem firefighter with a claim for bladder cancer based on the IME report. The City of Salem accepted his claim with the IME report concluding that "firefighters are twice as likely to contract bladder cancer." Under the current legislation we have oral cancer, throat cancer, lung cancer, colon cancer,
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but we not include the rest of the body system. There is bipartisan support in both the house and senate for this legislation. Specifically arsenic and diesel exhaust are leading causes of bladder and female reproductive cancers. From a policy point of view, science point of view, mother nature's point of view, and 42 other states there is support for this legislation.

Rep. Grayber added a note in the virtual meeting chat: "With thanks to my assistant Emily, here are the coverage statistics for female reproductive cancer coverage: 23 states do not cover reproductive cancers (but some of those do cover bladder). 16 of those 23 states cover male repro cancer but not female.

**1:25:49**

Tammy Bowers asked why would these conditions not be listed in the original legislation? Nelson Hall responded that most likely these were not included due to compromises made not to include them in the original legislation.

Rep. Grayber added a note in the virtual meeting chat: "Posting a link to the spreadsheet of different state cancer coverage.  
<https://www.iaff.org/presumptive-health/#1555251950049-fa213803-8fa7>"

**1:27:57**

Hasina Wittenberg, [Special Districts Association](#), detailed the 2007 and 2009 negotiations for the original presumption. States that there is no significant scientific motivation to include these cancers and that this will be detailed by Dr. Noel Weiss.

**1:31:47**

Dr. Noel Weiss examined studies in the United States and five Scandinavian countries where both noted only 10% increase of cancer among the firefighters studied and explained that this is a marginal difference. Further noting that in textbooks we find that firefighting is not listed as a cause of bladder cancer. They noted studies in Australia and Florida which noted a slight decrease in occurrences in bladder cancer in female firefighters. In answering why these conditions should not be included they noted that there is not scientific based evidence behind including these conditions in this legislation.

**1:38:52**

Andrew Graham, attorney, testified that workers' compensation is meant to compensate workers that are injured on the job. He noted that Dr. Weiss' testimony shows that the science does not support that these diseases are caused by work. It is the worker's burden to show that their condition is caused by their occupation by at least 51% and the presumption changes that by shifting the burden of proof to the employers. The board has considered seven cases in the past years supporting employee cases even with minor cause. If presumption cannot be rebutted and if the medical evidence is weak then the presumption leads to awards being given to

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claims that do meet the qualifications. Asks that MLAC does not support this legislation.

**1:46:20**

John McKenzie said it seems like we are currently covering other areas of the body (male reproductive areas, and kidney) why would other areas (female reproductive areas, bladder) not be covered? Andrew Graham and Dr. Weiss said that different things cause different cancers and that cancers included in the original presumption did not have strong scientific data when they were included in the statute either.

**1:49:05**

Matt Calzia questioned Dr. Weiss about the sample sizes of the studies examined and were included in this information. Dr. Weiss responded that some of these took place in Philadelphia and San Francisco. Matt Calzia asked Andrew Graham what NIOSH study he was referencing in his testimony and asked for sample size of female firefighters that Dr. Weiss mentioned. Dr. Weiss said that he did not have that sample size. Matt Calzia requested that we receive a copy of that report. Additionally, he asked Dr. Weiss if he makes medical determinations based solely on differential diagnosis processes where studies show causation or do they include information about correlations in their diagnosis decisions? Dr. Weiss responded that people feel it is best to base decision based on evidence even if it is limited or imperfect.

**1:53:34**

Tammy Bowers asked for clarification about the percentages of bladder cancer. Dr. Weiss clarified that these average numbers do not include the studies of lower number and that increases do not directly take into account the cause and effect. He noted that the studies shows that the rate of bladder cancer in firefighters is 10% higher than in the general population.

**1:56:39**

Scott Strickland states he is concerned about the focus on statistics and would like to reiterate that he is weighing these issues based on the MLAC values and purpose. He would like to bring up the absence of discussion of cost impact and equity for firefighters across Oregon. Scott asks to what extent can we claim that either supporting or not supporting this claim would encourage equitable policy to the people of Oregon.

**1:59:00**

Andrew Graham noted that is not the purpose of workers' compensation and that there is no scientific evidence to base support for this legislation. Scott Strickland clarified that he is asking about this from the position as MLAC and those values as a whole and not specifically workers' compensation perspective.

**2:00:46**

Patrick Priest notes we are past our scheduled ending time of 11:30am. Sara Duckwall asked that we complete this topic or get as close as possible before adjourning.

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- 2:03:31** Andrew Graham clarified that kidney cancer is not listed in the current presumption.
- 2:03:54** Nelson Hall spoke and mentioned that Dr. Weiss did mention that you should take meta-analysis with a grain of salt and urged them to make their recommendation keeping their in mind to take everything with a grain of salt. They urged the board to review that attached documents included, asking that they pay particular attention to specific articles mentioned that do not show sufficient information to include these in the legislation and may not answer the larger questions regarding scientific validity.
- 2:07:23** Jill Fullerton urged the group to bring the question of equity back into the conversation about furthering our goals. She also asked if there was a financial compensation for Dr. Weiss’ testimony; Hasina Wittenberg confirmed that Dr. Weiss was compensated for their research and testimony.
- LC 38  
2:10:06** Jessica Giannettino Villatoro, AFL-CIO introduced LC 38 briefly, they have tied the current legislation to case law showing how the current legislation does not support how families are defined by the courts. Changing the terms of “invalid” in order to not be offensive to those living with these disabilities. This would also remove the clause that is director’s discretion to reduce payments to dependents living abroad.
- LC 96  
2:15:39** Returning to discussion about LC 96. David Barenberg, [SAIF](#), deferred his time to Holly O’Dell. Holly commented briefly on [presumption](#) and what that means for firefighters around Oregon. Presumption moves this group from a case by case basis for determining causation of diseases to a blanket conclusion statewide.
- 2:26:08** Scott Winkels, League of Oregon Cities, does not offer any objection to inclusion of female reproductive cancers and recognizes it as an equity issue. He does object to the inclusion of bladder cancer and notes that other states have bladder cancer inclusions structured very differently than Oregon’s legislation.
- 2:28:20** Patrick Priest and Theresa Van Winkle spoke about options of testifying in the next meeting.
- 2:28:55** Lynn McNamara comments regarding LC 56, and asking both the proponents and opponents of the legislation to get together to discuss their differences before MLAC meets again.
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**2:29:30**

Tammy Bowers asked for next steps for LC 96. Patrick Priest said that he believes that they should meet as a caucus and continue discussion at the next meeting before making a recommendation. Theresa Van Winkle mentioned that responses to information requests should be sent to her and she will enter those into records.

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**Meeting**

**Adjourned**

Patrick Priest adjourned the meeting at 12:02pm.

**2:31:03**

\*These minutes and time stamps were taken from the meeting audio found here:

[MLAC Meeting January 21, 2022 - YouTube](#)

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

[Department of Consumer and Business Services : 2022 meetings : Management-Labor Advisory Committee : State of Oregon](#)