



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

MLAC | Management-Labor Advisory Committee

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March 19, 2019

Senator Kathleen Taylor, Chair
Senate Committee on Workforce

Dear Senator Taylor:

My apologies for missing portions of today's hearing on Senate Bill 507 due to schedule conflicts. I wanted to provide the committee an update on the Workers' Compensation Management-Labor Advisory Committee (MLAC) review of the bill. Please include this letter in the record for the bill.

MLAC heard this bill and proposed amendments at three separate meetings (December 3, 2018, January 11, and March 8). Most recently, the proponents provided amendments (see attached hand-engrossed -3 amendments) that narrowed the scope of the proposal. To ensure a more focused discussion, MLAC formed a subcommittee to review the proposal and identify consensus solutions. That subcommittee is scheduled to meet this Friday, March 22.

The committee is mindful of the legislature's deadlines to move bills forward and is making every effort to make a timely recommendation. For your committee's information, we have attached a one-page information sheet about MLAC and our process.

Sincerely,

Theresa Van Winkle
Committee Administrator

Members

Aida Aranda

Oregon & Southern Idaho
Laborers-Employers Training Trust

Kevin Billman

UFCW Local 555

Tammy Bowers

May Trucking Company

Alan Hartley

Management representative

Jill Fullerton

Clackamas Co. Fire District #1

Lynn McNamara

Management representative

Kathy Nishimoto

Duckwall-Pooley Fruit Company

Ateusa Salemi

Oregon Nurses Association

Diana Winther

IBEW Local 48

Kimberly Wood

Perlo Construction

Cameron Smith

Director, Oregon Department of
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Committee administration

Theresa Van Winkle

Committee Administrator

SB 507-3
(LC 2181)
3/5/19 (TSB/ps)

Requested by SENATE COMMITTEE ON WORKFORCE

**PROPOSED AMENDMENTS TO
SENATE BILL 507**

1 On page 3 of the printed bill, delete lines 15 through 45 and delete page
2 4 and insert:

3 “(7)(a) As used in this subsection:

4 “(A) ‘Fire service professional’ means a firefighter employed by any poli-
5 tical subdivision of this state, a special government body, as defined in ORS
6 174.117, or a public fire protection agency that engages primarily in fire
7 prevention, fire safety, fire control, fire suppression or fire investigation,
8 providing emergency medical services, light and heavy rescue services,
9 search and rescue services or hazardous materials incident response.

10 (B) ‘Psychiatric mental health nurse practitioner’ means a licensed nurse practitioner whom the Oregon
11 State Board of Nursing has licensed and certified as eligible to perform the diagnoses described in this subsection.

12 “(C) ‘Psychiatrist’ means a psychiatrist whom the Oregon Medical Board
13 has licensed and certified as eligible to perform the diagnoses described in
14 this subsection.

15 “(D) ‘Psychologist’ means a licensed psychologist, as defined in 675.010,
16 whom the Oregon Board of Psychology has certified as eligible to perform
17 the diagnoses described in this subsection.

18 “(E) ‘Public safety personnel’ means a police officer, corrections officer,
19 parole and probation officer, emergency operator or dispatcher or emergency
20 medical services provider employed by any political subdivision of this state,
21 a special government body, as defined in ORS 174.117, or a public agency.

22 “(F) ‘Trauma or stress-related disorder’ means a mental or psychological
23 disorder that is recognized and specified as a trauma-related or stress-related

1 disorder in the fifth edition of the Diagnostic and Statistical Manual of
2 Mental Disorders published by the American Psychiatric Association in-
3 cluding, but not limited to:

4 “(i) Post-traumatic stress disorder;

5 “(ii) Acute stress disorder;

6 “(iii) Adjustment disorder;

7 “(iv) Reactive attachment disorder; and

8 “(v) Disinhibited social engagement disorder.

9 “(b) Notwithstanding subsection (2) of this section and the provisions in
10 subsection (3) of this section that require certain demonstrations for a men-
11 tal disorder to be compensable, death, disability or impairment of health of
12 a fire service professional or public safety personnel is a compensable occu-
13 pational disease if:

14 “(A) A ^{psychiatric mental health nurse practitioner,} psychologist or psychiatrist has diagnosed a trauma or stress-
15 related disorder as the cause of the death, disability or impairment of health;

16 “(B) The employment conditions that produce the trauma or stress-related
17 disorder exist in a real and objective sense and arise from a single traumatic
18 or stressful event while performing duties as a fire service professional or
19 as public safety personnel or arise in the course of performing duties as a
20 fire service professional or as public safety personnel during any period of
21 two years or more;

22 “(C) The employment conditions that produce the trauma or stress-related
23 disorder are not conditions generally inherent in every working situation,
24 are not reasonable disciplinary, corrective or job performance evaluation
25 actions by the employer and are not employment decisions, including a de-
26 cision to cease employment, attendant upon ordinary business or financial
27 cycles; and

28 “(D) A claim for benefits that is based on a trauma or stress-related dis-
29 order is not filed more than 84 months after a termination of employment
30 as a fire service professional or as public safety personnel.

1 “(c) For the purposes of this subsection:

2 “(A) Death, disability or impairment of health shall be presumed to result
3 from performing duties as a fire service professional or as public safety per-
4 sonnel;

5 “(B) A denial of a claim for compensation for death, disability or
6 impairment of health must be on the basis of clear and convincing medical
7 evidence that performing duties as a fire service professional or as public
8 safety personnel was not the cause of, or did not contribute in material part
9 to, the death, disability or impairment of health; and

10 “(C) The presumption described in subparagraph (A) of this paragraph
11 may be rebutted only by clear and convincing medical evidence that performing
12 duties as a fire service professional or as public safety personnel was not the cause of,
13 or did not contribute in material part to, the death, disability or impairment of health.

14 “(d) Notwithstanding ORS 656.027 (6), a city that provides a disability or
15 retirement system for firefighters and police officers by ordinance or charter
16 that is not subject to this chapter, when accepting and processing claims for
17 death, disability or impairment of health from firefighters and police officers
18 covered by the disability or retirement system, shall apply:

19 “(A) The provisions set forth in this subsection; and

20 “(B) The time limitations for filing claims that are set forth in ORS
21 656.807.

22 **“SECTION 2. The amendments to ORS 656.802 by section 1 of this**
23 **2019 Act apply to all claims for benefits that occur or are pending on**
24 **or after the effective date of this 2019 Act.”.**

25



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The Workers' Compensation Management Labor Advisory Committee (MLAC) was originally established in the early 1990s to develop strategies for making workers' compensation costs affordable to employers and fair and improved benefits for workers. These recommendations also included formal establishment of this committee in statute. Since its inception, MLAC provides an effective forum for business and labor to meet to explore, discuss, and resolve issues involving the workers' compensation system, based on a common set of values:

- **Balance and fairness** - for Oregon workers and employers
- **Adequacy of benefits** - where the benefits are commensurate with the severity of the injury.
- **Affordability** - where the system contributes to a healthy Oregon business climate.
- **Efficiency** - a system that is streamlined and accessible.
- **Stability and flexibility** - a system established enough to be predictable, which encourages consistency, but is accommodating to change when necessary.

MLAC is a vehicle for reaching consensus, and minimizes the danger of making major structural changes from one legislative session to the next. The forum supports the long-term stability of Oregon's workers' compensation system that has led to lower premiums for employers and adequate benefits to employees.

MLAC is composed of five representatives each from business and labor, appointed by the Governor and confirmed by the Senate, with the director of the Department of Consumer and Business Services (DCBS) serving as an ex-officio member. The committee is charged by statute to provide accountability to the workers' compensation system, such as:

- Receiving annual financial reports from DCBS about the programs funded by the Workers' Benefit Fund;
- Biennially reviewing the standards for evaluating permanent disability and permanent partial disability benefits;
- Advising DCBS about any proposed changes in the operation of programs funded by the Workers' Benefit Fund; and
- Reporting to the Legislature on workers' compensation as considered appropriate.

Reports to the Legislature are conducted via the review and advisory recommendations of proposed legislation or formal reports as required by law.

MLAC is also charged with studying workers' compensation statutes or other issues at the request of the DCBS director or by the committee itself. Between legislative sessions, MLAC is often asked to focus on complex areas of the law that merit longer discussions than a typical legislative session allows.

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