

## House Bill 3493; LC 3193

Relating to Workers' Compensation Management-Labor Advisory Committee hearings  
Chief sponsor Representative Wirth (at the request of IWC)

House Bill 3493 requires the Management-Labor Advisory Committee (MLAC), the gatekeeper to changes in Workers' Compensation Law according to Governor Kulongoski, to conduct hearings in each state senatorial district and to report back to the 2005 Legislature on some of the Injured Worker Coalition "Five Points," in regard to major contributing cause (Section 1(3)(a), and to other matters required by law.

In 2001, Senator Tony Corcoran introduced five bills on behalf of the Injured Worker Coalition concerning attorney fees, insurance companies' processing of claims, vocational assistance for injured workers, insurer medical exams, and permanent disability benefits. The Management-Labor Advisory Committee, acting as Governor Kitzhaber's gatekeeper, did not hear these bills. Consequently, the 2001 Legislative Assembly did not hear them either.

In January 2002, State Representative's Kelly Wirth, Steve March, Phil Barnhart, along with Senator's Tony Corcoran and Bill Morrisette wrote MLAC, asking them to study the Coalition's Five Points. MLAC did not respond.

The MLAC Website records only 5 meetings by the committee during all of 2002. There is no indication that MLAC addressed the Five Points. Nor is there any indication that MLAC has worked on its legislative charge to develop the mandated (SB 485 of 2001) recommendation on an "exclusive, no-fault, expeditious alternative remedy to civil litigation over major contributing cause denials" (the Smothers v. Gresham Transfer, Inc. ruling). The only solution to Smothers that would be fair to workers would be reinstatement of material contributing cause.

House Bill 3493 attempts to provide for a public forum for open discussion on Oregon Workers' Compensation. It requires that 30 days' public notice of the date, time, place and subject matter be provided to the residents of each district through publication in a newspaper with general circulation. It's the only bill offered in 2003 that would lead to broad discussion of attorney representation, something MLAC has refused to deal with.

However, this bill does not substitute for passage of the other Injured Worker Coalition bills, with the possible exception of those relating to IMEs and vocational assistance. The prospects for passage of these bills are good because the Oregon AFL-CIO, in "An Action Plan for Good Jobs and Better Government" sent to legislators, supports bills on these important issues. If the IWC bills on IMEs and vocational assistance were enacted into law, then the statewide MLAC hearings could focus more on "provision of benefits" which can only be truly no-fault if Oregon returned to a material contributing cause standard of proof for injured workers.

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<sup>1</sup> [www.injuredworker.org/IWC/2003\\_bills.htm](http://www.injuredworker.org/IWC/2003_bills.htm)

A town hall meeting held in Corvallis by former Representative Ross and Representative Shetterly and an MLAC member attracted a large audience as others would since injured workers are most directly affected by MLAC's actions or inactions.

According to then-Governor John Kitzhaber, current MLAC members were appointed in 1999 to check the system's "fairness thermostat." To not have hearings is to ignore the desperate voices of workers throughout our state. It also defeats the objectives of Oregon Workers' Compensation Law which include providing, regardless of fault, sure, prompt and complete medical treatment; providing a fair and just administrative system for delivery of medical and financial benefits; restoring the injured worker physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable; and reducing the economic loss and human suffering caused by industrial accidents.