

...Oregon marks 20th anniversary of workers' comp reforms

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And yet, Kulongoski said, Oregon's biennial Legislature punted every two years, wrapping up every session with an unresolved fight about workers' comp, an issue held off 'til the end of each session because it was so divisive.

Oregon Gov. Neil Goldschmidt determined that sweeping changes were needed, and appointed a task force of seven labor and seven business leaders. Aided by Kulongoski, who was then Goldschmidt's appointee as Oregon's insurance commissioner, the task force met from January to April 1990 in the basement of Mahonia Hall, the governor's mansion.

Kulongoski explained why they met in Mahonia Hall. "It's the only place I know that has armed guards, a 10-foot fence, and no one else can get in unless you unlock the gate."

The proposal developed in the secret meetings, 86 pages of complex changes.

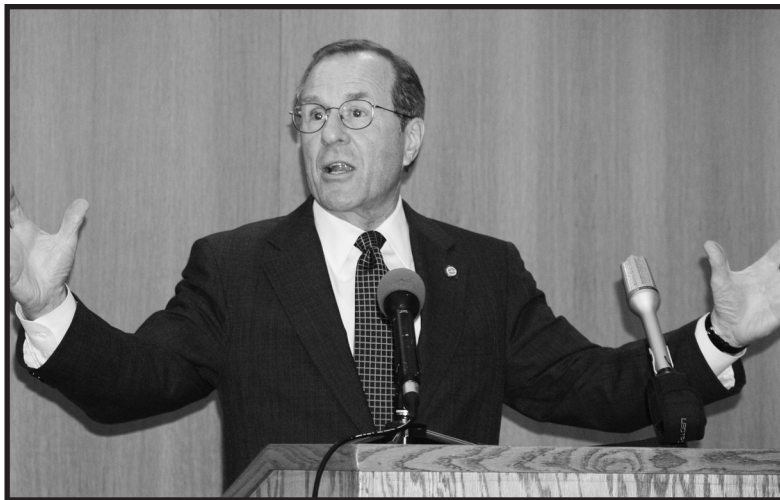
For political reasons, Goldschmidt and Kulongoski felt they had to have labor on board — specifically the endorsement of the Oregon AFL-CIO. But Amalgamated Transit Union Local 757 publicly opposed it, as did the AFL-CIO Industrial Union Council, the International Longshore and Warehouse Union, the Oregon Nurses Association, Fire Fighters Council, the Oregon Federation of Teachers, the Oregon School Employees Association, and the Oregon Education Association.

The American Federation of State, County and Municipal Employees (AFSCME) Oregon Council 75 and the Oregon State Building and Construction Trades came out in favor.

Oregon AFL-CIO President Irv Fletcher needed a two-thirds' vote of the Executive Board in order to deviate from positions adopted at the previous AFL-CIO convention. Goldschmidt and Kulongoski lobbied hard, even attending the meeting of the Executive Board before the vote. They got the endorsement, by one vote, 14-6.

"I knew it was very close, because there was tremendous controversy within the organization over this," Kulongoski recalled.

With labor's endorsement, the Legislature took up the reform package, now called Senate Bill 1187. It was pushed through on May 7, 1990, in a one-day special session of the Legislature called by the governor for that sole purpose. It passed, 54-6 in House and 23-7 in the Senate. While Republicans were unanimously for it, Democrats were split. Most Democrats voted for it, but some prominent labor allies did not, including Bill Bradbury, Dick Springer, Frank Roberts in the Senate and Sam Dominy, Bev Stein, and Margaret Carter in the House. Senate Labor



Oregon Gov. Ted Kulongoski (photo above) gathered May 3 with leaders of business and labor, including Bob Shiprack (left), executive secretary of the Oregon State Building and Construction Trades Council, to mark the 20th anniversary of historic reforms to the state's workers' compensation system.

ance rates, don't have any accidents."

SB 1187 added 70 inspectors to Oregon-OSHA, and required employers with more than 10 employees to have safety committees that included representatives of labor and management.

The reforms also sped the return of injured workers to work as soon as doctors determine they are able. Employers get a break on premiums when they bring an injured worker back on. To get employers to hire or rehire injured workers, Oregon's worker's comp system pays a 50 percent wage subsidy for three months, up to \$2,500 for special equipment and \$400 for clothing, and up to \$1,000 to update skills to meet the requirements of a light duty job.

SB 1187 also established a 14-member

Management-Labor Advisory Committee (MLAC), along the model of Mahonia Hall, to hash out future reforms. By custom, the Oregon Legislature won't consider any workers' comp reform unless MLAC has agreed to it. Only once, under Republican leadership in 1995, did the Legislature disregard MLACs, passing a bill that was loudly opposed by labor.

But at least one piece of the Mahonia Hall reforms saved money by making it harder for injured workers to get compensation. SB 1187 changed the definition of what is considered a compensable injury. Before, insurers paid claims when the workplace was a "contributing factor," to the injury or illness. The new rule spelled out that the workplace had to be the "major contributing cause." In other words, the workplace must have contributed at least 51 percent of the problem. Workers with pre-existing conditions, even ones they didn't know about, found their disability claims denied.

By the mid-'90s almost 45 percent of denied claims were rejected because the workplace wasn't considered the major contributing cause. And a 2000 study by the Workers' Compensation Center of Michigan State University found that 13 percent of Oregon's workers' comp savings could be attributed to the change to the major contributing cause standard.

"It's a part [of the savings], and there's no denying that," said John Shilts, head of the Oregon Workers Compensation Division.

Kulongoski, asked about it by the Labor Press, agreed. "It was a factor in reducing the number of compensable

claims," Kulongoski said.

"Before, employers basically bought whatever illnesses the employee had when they came to work for them. This tried to find a balance."

State Rep. Brad Witt, a union representative for United Food and Commercial Workers Local 555, doesn't see it that way.

"History will show that outside of enhanced safety and health enforcement, on the workers' compensation side of things, workers got screwed," Witt said. Witt served on MLAC for a time as Oregon AFL-CIO secretary-treasurer, and worked to modify the Mahonia Hall changes.

"The system was designed to make it possible to exclude people from gaining a compensable claim," he said.

But Witt thinks a series of reforms a decade and a half after Mahonia Hall restored some balance and fairness.

Today, premiums are the 13th lowest in the nation. Low workers' comp costs are a selling point when State of Oregon business recruiters woo out-of-state businesses. They were a factor in a decision by California-based organic food processor Amy's Kitchen to locate a plant near Medford, for example.

The safety changes — and a shift away from hazardous workplaces like logging and sawmills, led to fewer accidents. Oregon's rate of work-related injuries and illnesses fell — from 10.1 per 100 full-time workers in 1990 to 4.6 in 2008, according to an annual employer survey by the Bureau of Labor Statistics. That alone bolsters Kulongoski's point — that safe workplaces were the heart of the reform.

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