

# RisKeyNotes

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**Mission Statement:** Serve Oregon through statewide leadership and technical expertise to identify, communicate and manage risk.

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## Why Risk It?

### RISKEY BUSINESS

Every business organization has risks associated with their operations. Private or public, it makes no difference. Nothing is risk free. Risk management is often thought of as getting the right insurance or avoiding risk altogether. In truth, risk management is not so much about avoiding risks but identifying and managing them.



Risk management assessment should be a comprehensive analysis of potential risks to the organization. With a team that represents all major functions of the organization, the assessment should be focused, documented and methodically carried out. This involves reviewing operations, analyzing possible threats, studying the likelihood of their occurrence and taking appropriate actions to address the most likely exposures.

Exposures like cyber liability or employee theft make risk management more important than ever. Technology allows us to process a million bytes of data in seconds. These efficiencies can be costly if there is a security breach. Personal and financial data stored on our computers can be accessed in less time than it took to enter them. Additionally, our current economic situation can lend itself to more employee thefts. These exposures are real and changing as fast as our technology.

As a public entity, the state has a variety of exposures. From operations and staff to production and products, risk is inevitable. We cannot avoid it entirely. Nor should we try.

Good management, up to date policies and sound insurance practices are good examples of managing the risks and how risk management can improve the bottom line. Risk management is becoming a management consideration that is as important as financial or facilities management.



## SAFETY SLIPS IN A TIGHT ECONOMY



When money is tight, we save by cutting excess. Positions are left vacant, processes are eliminated, and safety compliance becomes hit-or-miss. Unfortunately, cutting corners for perceived savings can cost more not less. Cutting back on safety could mean higher cost if an injury does occur. There are simple workplace safety tips that are timeless and cost efficient. Common sense is free.

Discuss how to handle small accidents. Even a small cut can lead to exposure of biohazards to other employees. Appropriate first-aid kits should be available. They should be fully stocked and readily accessible.

Fire safety is another common issue. Even if your workplace does not have combustible materials, a fire can still occur. A major fire can spread quickly and cause serious damage and injury. Take time to make sure employees know

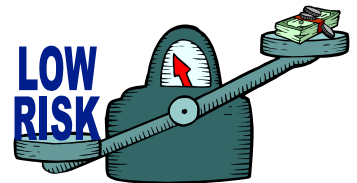
what to do during a fire. Teach all employees where fire extinguishers are and how to use them. Make sure fire exits are properly labeled and practice exiting a building in an orderly fashion.

If your work environment involves industrial machinery, label it properly. Labels should indicate where the specific dangers are. Posting signs that indicate dangerous equipment are for all employees, especially for those that do not work with the equipment.

Natural disasters cause severe damage and injury. While some geographical areas have more risk than others, each has its own set of dangers and responses. Employees should be taught as a group how to deal with each. Safety education should include evacuation practices and how to deal with subsequent events the disaster might cause.

Ask for help. SAIF, Oregon OSHA and DAS Risk Management have consultants willing to assist you in evaluating your workplace for hazards, to explain safety and health rules, and work with you to develop a safety program.

We can not control everything and injury will occur. How we handle them when they do occur is key. Use an open forum to hold discussions about accidents and near miss incidents on a regular basis. The bottom line is the focus on safety should never change. It is better to avoid the accident all together. There is always enough time and resources to play it safe.



### WELCOME, MARY!

Meet our new Administrative Specialist Mary Nekuda. Mary joined DAS Risk Management July 2011. She comes to us from DAS State Data Center where she worked as an Information Systems Specialist. She received her Bachelor of Science in general science at Portland State University. Her hobbies include hiking, dogs, spending time with her family, collecting Barbies and the challenge of learning new things.

## BE PREPARED

Governor Kitzhaber proclaimed September as National Preparedness Month. Every Oregonian is encouraged to learn about ways to prepare for all types of emergencies.

State agencies assume a multi-layered role in preparing for emergencies by:

- Minimizing the impact of an emergency on the citizens of Oregon.
- Ensuring the continuation of state business.
- Ensuring employee well-being while performing their duties.



Preparedness helps us to accomplish these roles efficiently and effectively in situations challenged by imminent, unfolding and existing dangers. Certain preparedness plans and procedures are required by policy, statute or rule. See links below for more information:

[Disaster Response](#) ORS 401.052 401.054  
[Evacuation Plans](#) OAR 437-002-0042  
[Emergency Medical Plans](#) OAR 437-002-0161(4)  
[Business Continuity Plans](#)  
[Office Closures](#)  
[Earthquake Drills](#) ORS 401.900(1)  
[Information Security Plans](#)  
[Suspicious Packages](#)

Others preparedness is matter of good practice. See links below for more information

[Fire Drill Plans](#) (See Chapter 6)  
[Disaster Kit Development 1](#) [Disaster Kit Development 2](#)  
[Building Security Plans](#)  
[Bomb Threats](#)  
[Disease Prevention](#)



Large, small, natural or manmade emergencies will occur. The key is to prepare and be ready to rise to the occasion in an emergency. With this in mind, below are some recommendations on how to embrace National Preparedness Month and improve your preparedness for an emergency:

- Update your existing plans.
- If you do not have a plan, create one.
- Communicate contents of the plan with your employees.
- Put together disaster kits for the office.
- Provide employees with information about home disaster kits.
- Discuss suspicious package plans with appropriate staff.
- Discuss unwanted visitor plans with appropriate staff.
- Discuss disease spread prevention guidelines with employees.



For information, contact DAS Risk Management staff at **(503) 373-7475** or [risk.management@state.or.us](mailto:risk.management@state.or.us).



# Legislative Lookout

## THAT'S A WRAP

During session, DAS Risk Management tracked proposed legislation and posted status of the bills on our website. Now that this legislative session has adjourned, several of the bills will be assigned ORS chapter numbers as they are now or soon will be law. The following is an overview of some of the bills DAS Risk Management was tracking during the 2011 session.

**HB 2036A** - Clarifies application of statutes related to unlawful discrimination against persons with disabilities and lowers the standard for determining whether an individual is substantially limited in a major life activity. This bill does not create a significant impact to tort or workers' compensation claims. Effective June 1, 2011.

**HB 3650C** - Establishes the Oregon Integrated and Coordinated Health Care Delivery System to replace managed care systems for recipients of medical assistance by January 1, 2014. The bill (Section 55) provides that inmates injured in a work program and who have been released from prison may use this system. Oregon Administrative Rules will be written to help with implementation.

**SB 77A** - Places limits on an inmate's ability to file small claims and prohibits an inmate from bringing small claims actions against another inmate. Requires an inmate to serve notice and claim on the public body, additionally requiring the inmate to serve the Attorney General when the public body is a state agency. This bill requires the small claims department to transfer the action to circuit court upon request of the public body or, in some instances, the Attorney General. The bill creates a right of intervention for Department of Justice attorneys and paralegals and prohibits a court from entering a default judgment in favor of an inmate in an action against a public body unless that inmate has properly filed and served the public body. Effective June 7, 2011.

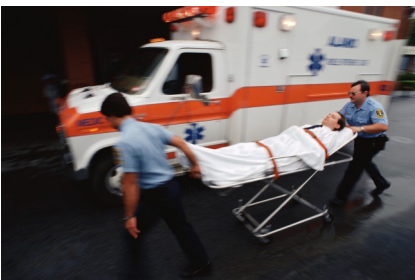


**SB 242C** - Separates the Oregon University System from the state of Oregon. From insurance perspectives, a decrease in the size of a risk pool increases insurance rates. From a Risk Management perspective, this decrease will have fiscal impacts. The degree of those impacts will be addressed throughout the coming year.

**SB 372A** - Removes ambulance services from the list of fee schedules used to calculate provider charges for personal injury protection benefits. This bill will have minimal fiscal impact. Effective September 1, 2011.

**SB 397A** - Allows action based on tort to be brought against an officer, employee or agent of a public body if the complaint alleges that the plaintiff is entitled to damages above the tort cap limits. Effective January 1, 2012.

**SB 563A** - Allows retired, previously licensed, certified or otherwise authorized health care provider to register as an emergency health care provider and to provide health care services without license or certification during a Governor-declared emergency. Effective January 1, 2012. The statute for emergency health care providers requires registered providers to receive tort and workers' compensation coverage during a declared emergency and in some emergency training situations. Oregon Administrative Rules will be written for program administration.



## DON'T DIAL AND DRIVE

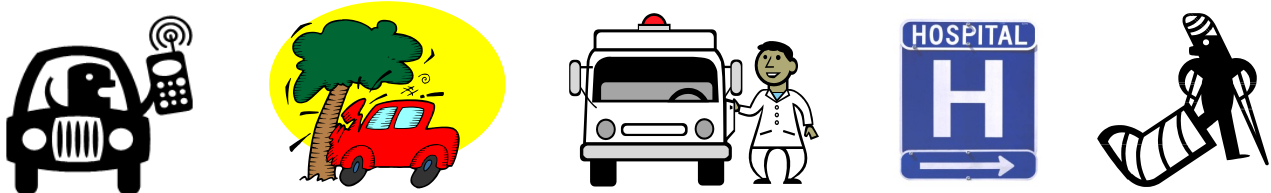
Even though current laws ban driving while talking on a cell phone, it happens all the time. They are a convenience that some find hard to do without. Still, a cell phone creates a driving distraction.

Prior to this change in 2011, under statute a person operating a motor vehicle in the scope of the person's employment is exempt, if operation of the motor vehicle is necessary for the person's job. **Current legislation removes that exemption.**

Section (3) of **ORS 811.507** does not apply to a person using, turning on or turning off a mobile communication device (MCD) if the person is:

- Summoning medical or other emergency help.
- Using a MCD for the purpose of farming or agricultural operations.
- Operating an ambulance or emergency vehicle.
- 18 years or older and is using a hands-free accessory.
- Operating a motor vehicle providing public safety services or emergency services.
- Operating a motor vehicle acting in scope of person's employment as a public safety officer. (as defined in ORS 348.270)
- Operating a tow vehicle or roadside assistance vehicle in scope of employment.
- Operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service.

Each agency should be familiar with the statute. Agencies are in a better position to identify whether it is important in their business operations. Agencies need to assess their increased risk in allowing employees to drive distracted.



## Risk Management Advisory Council (RMAC) UPDATE

*Kyle Knoll, RMAC Chair*

The Risk Management Advisory Council recently reviewed their charter and operating guidelines. This gave RMAC the opportunity to review the primary functions of the council. These include:

- Providing a statewide forum for identifying and supporting state agencies' risk management needs and priorities.
- Gathering and sharing risk management information. This includes industry updates and best practices, as well as Oregon's statewide strategic goals and directions.
- Evaluating risk management issues and submitting related recommendations to the Department of Administrative Services Risk Management (DAS RM).

The council continues to discuss Enterprise Risk Management as a standing agenda item, the impacts of the 2011 Legislative Session and other current issues facing agency risk and safety officers.

If you are interested in further information about [RMAC](#), visit the website. It provides current information on council membership, the charter, operating guidelines, meeting agendas and minutes.

Consider attending an upcoming RMAC meeting. RMAC values your attendance and participation in our statewide risk management forum.

## A MILLION REA\$ON\$ TO ACCE\$\$ THE EMPLOYER-AT-INJURY PROGRAM

Hillary Eisenhart, EAIP Specialist

Approximately \$1,153,167 in benefits from the Employer-at-Injury Program (EAIP) found its way to state agencies in 2010. EAIP, created in 1993, is an incentive for employers to return injured workers to transitional work. The EAIP has increasingly become a valuable resource to state agencies. Thanks to the hard work of our agency partners facilitating transitional work, over \$700,000 was returned so far in 2011. We believe we have a good chance to beat the mark set in 2010, but only with your help.

What can EAIP do for you? EAIP funds purchases that help you provide productive transitional work for an injured employee, as well as training to enhance a worker's skills. It can also subsidize some of the wages for transitional work. Following is a list of EAIP benefits:

**Wage subsidy:** Fifty percent of a worker's gross wages while on transitional duty can be reimbursed for a maximum of 66 work days within a consecutive 24-month period.

**Worksite modification:** A \$2,500 maximum can pay for altering a worksite by renting, purchasing, modifying, or supplementing equipment that enables a worker to perform transitional work within the worker's limitations.

**EAIP purchases:** The following purchases help create a worksite or position that is within the employer's course and scope of trade or profession or for skill building requirements.



- **Tools and equipment:** A \$2,500 maximum can purchase equipment required to perform transitional work, regardless of a worker's limitations.
- **Tuition, books, fees and materials:** A \$1,000 maximum can help create transitional work or enhance a worker's skills with classes or courses of instruction.
- **Clothing:** A \$400 maximum can pay for clothing that is required for the job and not normally provided by the employer.

There are specific time deadlines to pursue reimbursement under this program. Avoid delays that may result in funds being left on the table.

If you are interested in learning more about the program and how to access EAIP benefits, please visit our website at [www.saif.com](http://www.saif.com). SAIF will also help identify claims that may have EAIP potential. Contact your return-to-work consultant for more information on focused targeting and trainings available for EAIP.

Together, we can exceed \$1 million for 2011. Let us help you access the valuable benefits provided by EAIP and return important funds back to the State of Oregon.

### Excerpt from DAS Memorandum dated October 5, 2010:

Through financial incentives, the Employer-at-Injury Program (EAIP) encourages employers to help get injured workers back into the workplace through wage subsidies and worksite modifications. There have been questions around the use of the funds received as payroll reimbursement from SAIF on which we would like to offer guidance.

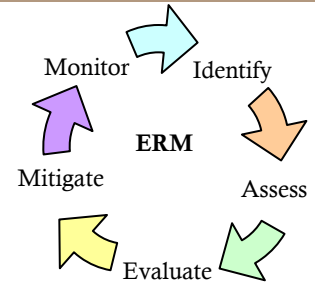
When an agency is reimbursed for payroll expenses through the EAIP, the agency may use the funds as a reduction of expense, per OAM 20.040.00, but monies can also be used for safety related purchases (such as through placement in grant fund accounts) without being in violation of the OAMs or any controls that Budget and Management have in place.



# Enterprise Risk Management

## RECOGNIZING IT FOR WHAT IT IS

Michelle Gains, Office of COO



Like many of you out there, my career has taken me many different places. I work for the State now, but have been a private consultant as well. I have worked both sides of business operations as a business manager as well as an IT manager. In other words, large or small, internal or external, I get the importance of business.

As I write this article about Enterprise Risk Management, I would like to make two points. First, ERM is a lousy name. Secondly, you need it no matter what you think.

Why is it a lousy name? Because, it takes the focus off of doing business. At least it could lead you to believe it does so. It makes it easier to dismiss as just another YAMA (Yet Another Management Approach). We already have to deal with time management, personnel management, customer relationship management, facilities management, security management, fleet management, environmental management and budget management. Now, risk management? Good grief! How many forms, models and diagrams do you need to fill out or think about in between running the business? How about just getting the work done?

The truth is we are all managing every single one of these variables. In the course of doing business, each decision, each interaction in some way involves people, time, quality, service, security, environmental impact and, yes, risk. When we switch lanes in traffic or we estimate the cost of steel over the course of a multi-year construction project, we consider risk. Every time we eat that hot dog loaded with chili and onions or we apply a patch to an operating system, there are risks. We actively manage risk with each moment, each transaction.

ERM is really about developing a structured way of thinking about how to keep in business. How to talk about doing so. Having a common language throughout “the Enterprise” (division, department, program, agency, state), then documenting so that everyone knows how best to act to avoid the **impact** of a disruption. No matter what some anonymous hacker, Mother Nature, or Wall Street throw at us, give it another look.

## DIRECTLINE TO HEALTHCARE

The most common cause of joint pain is not injury but wear and tear. Therapy helps reduce pain and restore function. Working to strengthen muscles and connective tissues keep joints aligned.

PEBB and Providence give members access to a new program for treatment of back, shoulder, hip or knee pain called DirectLine to Healthcare. This program offers fast, direct access to physical therapy for members in the statewide and Providence Choice plans without a doctor’s referral.



When you call for care at one of these clinics (remember to say you are a PEBB member), a specially trained therapist reviews your symptoms and history to help you decide on therapy. You will have your first session within 48 business hours. In addition, your therapist keeps your primary provider in the loop on your care and your progress. DirectLine shortens the timeline for you to get back in action.

This program is not offered statewide. Information is being sent statewide to increase knowledge of the program and of planned expansion. The list of participating clinics may soon expand to Salem and other regions where existing clinics are able to put this innovative care model into practice.

## SOCIAL NETWORKING

Social Networking is a growing phenomenon. The statistics vary depending on which site you visit, but all the numbers are staggering. Estimates show 47% of online adults use social networking sites. Seventy three percent of teens and young adults are members of at least one site. Facebook has more than 1.5 million businesses that have active business pages and 400 million active users. Twitter sites estimate 24 million unique visitors per month with 500 million tweets per day. There are approximately 50 million tweets per day at about 600 tweets per second. Twitter is used by 11% of adult online users. These numbers do not count MySpace or the dozens of other social networking sites available. Social networking comes with opportunity, challenge and risk.



Work environments and social technology are bleeding into each other blurring the line between business and private use. Businesses are using social networks as a new channel for advertising and customer communication. These types of sites offer a community experience with customers and provide personalized interactions. Social media technology provides customer feedback in a matter of seconds. At the touch of a button, a potential customer can learn all they need to know about your business. This instant access is where the challenges arise. A posting of a negative comment read within minutes can damage a reputation beyond repair. The implications from a negative event can be far reaching. How is incorrect or unfavorable information removed? Information can be posted anonymously, intentionally or by accident. However, once it is posted, it may be there forever.



While social media and networking might have their place in social commerce, it is not without risk. An unfavorable posting from an unhappy customer is one thing. However, the posting of confidential company information can have dire ramifications.

Department of Administrative Services provides a [publication](#) that represents best practices, guidelines and suggestions regarding social networking accounts. These guidelines provide assistance to agencies in design and maintenance. These are not formal rules or government policies. DAS' ongoing development of formal policies will likely utilize the principles and suggestions contained in this publication. In addition DAS and DAS RM encourage agencies to follow their existing agency policies in setting up and maintaining social networking accounts.





# Claims Connection

## LOW NUMBERS BUT HIGH COST

General liability losses related to employment claims are some of the State's most costly claims. While frequency may be lower than other exposures, the payouts certainly make up for it in dollars spent.

In the last five years, there were approximately 470 employment related claims. No real concern, until you consider the cost of those 470 claims. Total incurred losses of \$8,880,092 should make anyone stand up and take notice. Key legislation like the Americans with Disabilities Act of 1990 and The Civil Rights Act of 1991 played a significant role in the increase of these payouts.

The allegations related to employment liability run the spectrum. From discrimination claims to wrongful termination, any allegation can be costly to defend. With \$6.1 million in incurred legal costs over the last five years, prevention is the best strategy. The following actions can limit or make actual claims easier to defend.

Staff with qualified employees:

- Clearly define qualifications
- Do background and reference checks
- Utilize trial service to fully assess job performance

Manage the work unit:

- Hold employee accountable for work performance
- Hold managers accountable to manage
- Complete performance appraisals that are accurate and timely



Administer discipline appropriately:

- Ensure actions imposed meet statutory or contractual standard (Just Cause)
- Maintain proper documentation in appropriate files that demonstrate factual basis for action
- Engage in proper consultation with Risk, DAS HRSD and DOJ

Proper Investigations:

- Prepare factual reports that are inclusive of all information
- Presume the investigation is subject to disclosure
- Assess documents and interview witnesses identified
- Adhere to your process



In an ever-changing environment, it might seem impossible to avoid employee claims. Key in loss prevention is staying up to date on employment laws, understanding how they apply to your organization and instituting up to date policies that communicate accepted best practices to others.

# WHATEVER YOUR MODE SHARE THE ROAD



**The Way to Go.** Transportation Safety — ODOT

We're on the Web!

<http://www.oregon.gov/DAS/SSD/Risk>

## DAS RISK MANAGEMENT DIRECTORY OF SERVICES

Information 503-373-7475  
FAX 503-373-7337  
Email [risk.management@state.or.us](mailto:risk.management@state.or.us)

SAIF Emergency Report 1-800-285-8525  
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### DAS SERVICE PLEDGE

To improve our service, we commit  
to you a "Service Pledge" to be  
**KNOWLEDGEABLE, RESPECTFUL AND  
RESPONSIVE**  
in our business and interactions.

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