

MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL

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APPENDIX A

ADVISORY COUNCIL MEMBERS - FY'03

BUSINESS		LABOR
<p>TOM JONES Vice President of Employer Services, AIM 222 Berkeley Street, P.O. Box 763 Boston, MA 02117-0763 Tel: (617) 262-1180 FAX: (617) 536-6785</p> <p>JEANNE-MARIE BOYLAN Boston Sand and Gravel Company 169 Portland Street Boston, MA 02114-1712 Tel: (617) 227-9000 FAX: (617) 523-7947</p> <p>ANTONIO FRIAS S & F Concrete Contractors, Inc. 1266 Central Street, P.O. Box 427 Hudson, MA 01749 Tel: (978) 562-3495 FAX: (978) 562-9461</p> <p>EDMUND C. CORCORAN, JR. Raytheon, Director of Integrated Disability Programs 47 Foundry Avenue Waltham, MA 02453 Tel: (781) 860-1724 FAX: (781) 860-1738</p>		<p>WILLIAM H. CARNES Teamsters Union, Local 25 544 Main Street Boston, MA 02129-1113 Tel: (617) 241-8831 FAX: (617) 242-4284</p> <p>ROBERT BANKS J.A.C. Iron Workers, Local 7 195 Old Colony Avenue South Boston, MA 02127 Tel: (617) 268-4200 FAX: (617) 268-0330</p> <p>FRANK FANNING SEIU - Local 615 60 Canal Street Boston, MA 02114 Tel: (617) 523-6150 FAX: (617) 742-4896</p> <p>JOHN J. PERRY Teamsters, Local 82 330 Dorchester Street South Boston, MA 02127 Tel: (617) 269-6868 FAX: (617) 269-6914</p> <p>STEPHEN F. SAMPSON Business Manager, Int'l Union of Elevator Constructors Local 4, AFL/CIO, 424 Cambridge Street Allston, MA 02134 Tel: (781) 849-9698 FAX: (781) 849-9697</p>
EX-OFFICIO		EX-OFFICIO
<p>JANE C. EDMONDS Director, Dept. of Labor & Workforce Development One Ashburton Place, Suite 2112 Boston, MA 02108 Tel: (617) 727-6573 FAX: (617) 727-1090</p>		<p>BARBARA B. BERKE Director, Department of Business & Technology One Ashburton Place, Suite 2101 Boston, MA 02108 Tel: (617) 727-8380 FAX: (617) 727-4426</p>
CLAIMANT'S BAR	INSURANCE	VOCATIONAL REHAB.
<p>ALAN S. PIERCE Alan S. Pierce & Associates 27 Congress Street Salem, MA 01970 Tel: (978) 745-0914 FAX: (978) 745-1046</p>	<p>J. BRUCE COCHRANE Cochrane and Porter 981 Worcester St. Wellesley, MA 02482 Tel: (781) 431-9800 FAX: (781) 431-0222</p>	<p>CAROL FALCONE Falcone Associates 43 Witham Street, Suite 2 Gloucester, MA 01930 Tel: (978) 281-4275 FAX: (978) 281-4275</p>
STAFF		
<p align="center"><i>ANDREW S. BURTON, Executive Director</i> <i>EVELYN N. FLANAGAN, Program Coordinator</i> <i>ANN M. HELGRAN, Paralegal</i></p>		

APPENDIX B

Agenda - Fiscal Year 2003

July 10, 2002

DIA Update

Impartial Medical Rates

- Council Member Tom Jones

Vocational Rehabilitation

- Council Member Carol Falcone

Action Items

- Minutes - June, 2002

Executive Director Update

Miscellaneous

August 14, 2002

DIA Update

Action Items

- Minutes - July, 2002

Executive Director Update

Miscellaneous

September 11, 2002

DIA Update

Vocational Rehabilitation Subcommittee Update

- Council Member Carol Falcone

Action Items

- Minutes - August, 2002

Executive Director Update

Miscellaneous

October 9, 2002

DIA Update

Oracle – Phase II

Action Items

- Procurement for Actuarial Consulting Services (Draft)

- Minutes - August, 2002

- Minutes - September, 2002

Budget Subcommittee Update

Executive Director Update

Miscellaneous

November 13, 2002

DIA Update

Oracle Conversion – Phase II

RFR Discussion

- Mercer Risk, Finance & Insurance Consulting

Action Items

- Minutes - October, 2002

Executive Director Update

Miscellaneous

December 18, 2002

DIA Update

Action Items

- Minutes - November, 2002

Executive Director Update

Miscellaneous

January 8, 2003

DIA Update

Insurance Rate Filing - Bidder Presentations

- Mercer Risk, Finance & Insurance Consulting - Scott J. Lefkowitz
- Tillinghast - Towers Perrin - Ann M. Conway

Fiscal Year 2002 Annual Report - Final Draft

Action Items

- Minutes - November, 2002
- Minutes - December, 2002

February 12, 2003

DIA Update

Compensation Review System (CRS)

- Catherine Farnam, Director of Office of Health Policy

Action Items

- Minutes - January, 2003

Executive Director Update

Miscellaneous

March 12, 2003

DIA Update

Budget Subcommittee Update & Discussion

Action Items

- Minutes - February, 2003

Executive Director Update

Miscellaneous

April 9, 2003

DIA Update

Actuarial Review of Rate Filing

- Ann Conway, Tillinghast Towers-Perrin

OEVR Subcommittee Update

- Council Member Carol Falcone

Action Items

- Minutes - March, 2003

Executive Director Update

May 14, 2003

Actuarial Review of Rate Filing - SRB & Attorney General

- Ann Conway & Mr. Bardis, Tillinghast Towers-Perrin

Action Items

- Minutes - April, 2003

Miscellaneous

Judicial Interviews - Executive Session

May 22, 2003

Actuarial Review of Rate Filing - SRB & Attorney General

- Ann Conway & Manolis Bardis, Tillinghast Towers-Perrin

Judicial Interviews - Executive Session

June 11, 2003

Judicial Interview – Executive Session

- John T. Walsh

DIA Update

Action Items

- Minutes - May 14, 2003

- Minutes - May 22, 2003

Workers' Compensation Legislation Discussion

Executive Director Update

Miscellaneous

APPENDIX C

Joint Committee on Commerce & Labor - FY'03

Senator John A. Hart, Jr. (Chair)
State House - Room 309
Boston, MA 02133-1053
(617) 722-1150

Senator Thomas M. McGee
State House - Room 413-E
Boston, MA 02133-1053
(617) 722-1350

Senator Susan C. Tucker
State House - Room 424
Boston, MA 02133-1053
(617) 722-1058

Rep. Michel J. Rodrigues (Chair)
State House - Room 43
Boston, MA 02133-1053
(617) 722-2030

Representative Demetrius J. Atsalis
State House - Room 167
Boston, MA 02133-1053
(617) 722-2692

Representative Patricia D. Jehlen
State House - Room 275
Boston, MA 02133-1053
(617) 722-2676

Representative Stephen P. LeDuc
State House - Room 527A
Boston, MA 02133-1053
(617) 722-2915

Rep. Christopher P. Asselin
State House - Room 540
Boston, MA 02133-1053
(617) 722-2090

Representative Robert Spellane
State House - Room 42
Boston, MA 02133-1053
(617) 722-2370

Senator David P. Magnani
State House - Room 323
Boston, MA 02133-1053
(617) 722-1640

Senator Michael W. Morrissey
State House - Room 413-D
Boston, MA 02133-1053
(617) 722-1055

Senator Brian P. Lees
State House - Room 308
Boston, MA 02133-1053
(617) 722-1291

Representative Jennifer M. Callahan
State House - Room 236
Boston, MA 02133-1053
(617) 722-2430

Representative Mark A. Howland
State House - Room 443
Boston, MA 02133-1053
(617) 722-2460

Representative Michael F. Rush
State House - Room 437
Boston, MA 02133-1053
(617) 722-2460

Representative Lewis G. Evangelidis
State House - Room 443
Boston, MA 02133-1053
(617) 722-2460

Representative Paul J. Loscocco
State House - Room 254
Boston, MA 02133-1053
(617) 722-2220

APPENDIX D

Industrial Accident Nominating Panel

Angelo R. Buonopane, Commissioner (Chair)
Division of Industrial Accidents
600 Washington Street
Boston, MA 02111
Tel: (617) 727-4900 x 356
Fax: (617) 727-6477

Joseph Bonfiglio, Bus. Mgr. & Secretary Treasurer
Laborer's International Union - Local 151
238 Main Street
Cambridge, MA 02142
Tel: (617) 876-8081
Fax: (617) 492-0490

Jane Edmonds, Director
Dept. of Labor & Workforce Development
One Ashburton Place, 21st Floor
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James C. Cronin, Esq.
Raytheon
47 Foundry Avenue
Waltham, MA 02453
Tel: (781) 642-2612
Fax: (781) 642-2628

Mr. Robert J. Haynes, President
Mass. AFL-CIO
389 Main Street, Suite 101
Malden, MA 02148
Tel: (781) 324-8230
Fax: (781) 324-8225

Daniel Winslow, Chief Legal Counsel
Room 271 - State House
Boston, MA 02133
Tel: (617) 727-2065
Fax: (617) 727-8290

Daniel J. O'Shea, Senior Judge
Division of Industrial Accidents
600 Washington Street
Boston, MA 02111
Tel: (617) 727-4900 x 354
Fax: (617) 727-7122

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Tel: 232-9500 x 4836
Fax: 278-4543

Barbara Berke, Director
Dept. of Business & Technology
One Ashburton Pl., Room 2101
Boston, MA 02108
Tel: (617) 727-8380 x 326
Fax: (617) 727-4426

Michael A. Torrissi, Esq.
Torrissi & Torrissi, L.L.C.
555 Turnpike Street, Suite 44
North Andover, MA 01845
Tel: (978) 683-4440
Fax: (978) 682-3330

APPENDIX E

The Governor's Council

Room 184, State House
Boston, MA 02133
(617) 725-4015

The Massachusetts Governor's Council, also known as the Executive Council, is comprised of eight individuals elected from districts, and the Lt. Governor who serves ex officio. The eight councilors are elected from their respective districts every two years. Each councilor is paid \$15,000 annually plus certain expenses.

The Council generally meets at noon on Wednesdays in its State House Chamber, next to the Governor's Office, to act on such issues as payments from the state treasury, criminal pardons and commutations, and approval of gubernatorial appointments; such as judges, notaries, and justices of the peace.

The Governor's Council is responsible for approving all Administrative Judges and Administrative Law Judges at the Division of Industrial Accidents.

Michael J. Callahan
500 Salem Street
Medford, MA 02155
Res: (781) 393-9890

Christopher A. Iannella
263 Pond Street
Boston, MA 02130
Bus: (617) 227-1538

Carol A. Fiola
307 Archer Street
Fall River, MA 02720
Bus: (508) 678-9727

Dennis P. McManus
78 Burncoat Street
Worcester, MA 01605
Bus: (508) 856-9800

Marilyn M. Petitto Devaney
98 Westminster Avenue
Watertown, MA 02472
Res: (617) 923-0778

Edward M. O'Brien
P.O. Box 507, 7 Campus Lane
Easthampton, MA 01027
Bus: (413) 527-1352

Mary-Ellen Manning
P.O. Box 3528
Peabody, MA 01961-3528
Bus: (978) 531-6363

Kelly A. Timilty
15 Virgil Road
West Roxbury, MA 02132
Bus: (617) 325-7366
Bus: (781) 828-6363

APPENDIX F

Health Care Services Board

Current Members (2003):

Dean M. Hashimoto, MD, JD (Chair)	<i>Ex-Officio Member</i>
Henry W. DiCarlo, MM (Vice-Chair)	<i>Employers' Representative</i>
David S. Babin, MD	<i>Physician Representative</i>
Robert A. Gundersen	<i>Hospital Administrative Representative</i>
Peter A. Hyatt, DC	<i>Chiropractic Representative</i>
Robert P. Naperstek, MD	<i>Physician Representative</i>
Barbara C. Mackey, MS, APRN	<i>Public Representative</i>
L. Christine Oliver, MD	<i>Physician Representative</i>
Cynthia M. Page, PT	<i>Physical Therapist Representative</i>
Janet D. Pearl, MD, MSC	<i>Physician Representative</i>
Nancy Lessin	<i>Employee Representative</i>
Bernard S. Yudowitz, MD, JD	<i>Physician Representative</i>

Staff:

Catherine R. Farnam, RN, MS, CS	<i>Executive Director</i>
Judith A. Atkinson, Esq.	<i>Counsel</i>
Hella Dalton	<i>Research Analyst</i>

All members can be reached c/o:

Division of Industrial Accidents
Health Care Services Board
600 Washington Street, 7th Floor
Boston, MA 02111
Tel: (617) 727-4900 x310 or x574
Fax: (617) 348-2176

APPENDIX G

Roster of Judicial Expiration Dates

INDUSTRIAL ACCIDENT REVIEWING BOARD - SIX YEAR TERMS

1.	Martine Carroll	Unenrolled	05/28/04
2.	Frederick Levine	Unenrolled	05/28/04
3.	Susan Maze-Rothstein	Democrat	06/10/04
4.	William McCarthy	Democrat	05/21/04
5.	Patricia Costigan	Unenrolled	06/03/04
6.	<VACANT>	<N/A>	05/28/04

INDUSTRIAL ACCIDENT BOARD - SIX YEAR TERMS

1.	Douglas Bean	Republican	06/26/05
2.	Michael Chadinha	Republican	05/28/04
3.	David Chivers	Republican	05/21/04
4.	William Constantino	Republican	06/13/07
5.	Lynn Brendemuehl	Unenrolled	07/06/06
6.	<VACANT>	<N/A>	05/21/04
7.	John Harris	Republican	05/28/04
8.	Richard Heffernan	Democrat	09/04/09
9.	John Preston	Republican	07/29/06
10.	James LaMothe	Republican	01/31/09
11.	Roger Lewenberg	Republican	06/26/04
12.	Fred Taub	Democrat	08/03/06
13.	Douglas McDonald	Democrat	07/06/06
14.	Bridget Murphy	Republican	07/27/06
15.	Maureen McManus	Republican	05/28/04
16.	Herbert Dike	Republican	07/05/08
17.	Dianne Solomon	Unenrolled	08/10/06
18.	<VACANT>	<N/A>	05/28/04
19.	Omar Hernandez	Democrat	12/29/05
20.	Richard Tirrell	Democrat	05/14/04
21.	Charles E. Walker, Jr.	Unenrolled	09/18/04

INDUSTRIAL ACCIDENT BOARD - ONE YEAR TERMS

1.	Leo Purcell	Democrat	09/09/04
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**Testimony:
Workers' Compensation Advisory Council**

Joint Committee on Commerce & Labor Hearing
State House – Gardner Auditorium
July 24, 2003

Good morning. My name is Tom Jones and I am testifying in my capacity as Chairman of the Massachusetts Workers' Compensation Advisory Council. When I am not volunteering my time for the Council, I serve as the Vice President and Counsel of the Employer's Resource Group for Associated Industries of Massachusetts. I am also joined by Andrew Burton who serves as our Executive Director.

The Advisory Council is a Governor-appointed Board comprised of leaders from business and labor, as well as representatives from the legal, medical, insurance and vocational rehabilitation communities. Each month, Council Members come together to discuss a variety of workers' compensation issues with the ultimate goal of identifying problems and developing solutions. When the affirmative vote of at least seven members can be reached between business and labor, these positions are reflected in our recommendations.

It has been twelve years since the enactment of the Workers' Compensation Reform Act of 1991 and the Massachusetts Workers' Compensation System continues to benefit. However, the Advisory Council believes that the passage of certain bills would further complement the system for injured workers, employers and insurers.

The Council supports **House Bill 2924**, filed by Representative Koczera, which would "naturally" stagger judicial terms at the DIA by making the initial appointment of all Administrative Judges (AJ's) for six-year terms. Currently, the statute provides that any judge appointed to fill a vacancy, occurring prior to the expiration of a term, must be appointed for the unexpired portion of that term. With as many as nine AJ's and all six ALJ's terms expiring next year, the Advisory Council believes future delays to the system can be prevented with the passage of this bill. This proposed legislation also creates a system of performance review for newly appointed Administrative Judges. The Senior Judge would be required to conduct a performance review after two years into an AJ's initial term. Only in the event that a performance review recommended against the continuation of a term would it be forwarded to the Governor for appropriate removal action if deemed necessary.

The Council also endorses **House Bill 2380**, filed by Representative Cabral, which would subject the Senior Judge, the Administrative Judges, and the Administrative Law Judges to a judicial code of conduct. We would like to offer an amendment to this legislation that would substitute the American Bar Association's (ABA's) Model Code of Judicial Conduct for State Administrative Law Judges, in lieu of the current language as set forth by the Supreme Judicial Court (SJC). Although both codes exhibit similar ethics, the ABA code will most appropriately serve DIA judges, as they are technically not members of the constitutional

judiciary, but rather the executive branch of government. The Council believes that the DIA's 6-year appointed administrative judges should not be bound to the same code of ethics as judicial life appointees. The passage of this bill will enhance the authority that administrative judges exercise over the fate of injured employees and employers, helping to ensure the fair administration of justice.

The Council also endorses **House Bill 2382**, filed by Representative Cabral, which would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. If passed, this legislation would rightfully compensate workers for all disfigurement, whether or not scar-based, regardless of its location on the body, subject to a \$15,000 maximum benefit. In 2000, the Advisory Council asked the actuarial firm Tillinghast - Towers Perrin to estimate the impact on workers' compensation costs of restoring scarring awards to their pre-chapter 398 level. Although Tillinghast was unable to quantify the impact of such a proposed revision due to incomplete data, they suggested that it would have a "relatively minimal impact on system costs."

Finally, the Council has voted to endorse the concept of **House Bill 2205**, filed by Representative Walsh. This bill would provide a vehicle for both private citizens and insurers to bring forth a civil action against employers who illegally fail to pay workers' compensation premiums as mandated by Chapter 152. On suits brought forth by private citizens, the majority of the damages would be deposited into the DIA's Special Fund to pay for the agency's operating expenses. Insurance carriers would be able to recover the full amount of the award in situations where they obtain court approval to replace the private citizens in the lawsuit. The Advisory Council believes that the concept of this legislation will help alleviate the competitive disadvantage faced by the vast majority of honest employers who purchase workers' compensation policies, when their competitors may not. The Advisory Council is only supporting this bill in concept due to the fact that additional changes are expected to be made. We welcome the opportunity to work with the legislature in the refinement of this bill.

On behalf of the Advisory Council, I would like to thank the Joint Committee on Commerce & Labor for holding this hearing and allowing us the opportunity to share our recommendations. However, it is important to note that the Advisory Council reserves the right to remove any endorsement on a specific bill if altered or attached to other legislation not supported by the Council. Any effort to amend the workers' compensation system must be carefully scrutinized to ensure that changes to the statute will build upon the successful aspects of the system, benefiting both injured workers and employers.

Thank you for the consideration of our recommendations.

We will be happy to answer any questions.

APPENDIX I

Testimony: Workers' Compensation Advisory Council

Office of Commerce & Labor
State House – Gardner Auditorium
February 12, 2003

Good morning. My name is Tom Jones, Chair of the Massachusetts Workers' Compensation Advisory Council. I am joined by William Carnes, Vice Chair of the Council. I am also joined by Andrew Burton who serves as our Executive Director. Mr. Carnes is the Vice President and Business Agent of Local 25 of the Teamsters Union and represents the interests of labor on the Council. I am the Vice President and Counsel of the Employer's Resource Group for Associated Industries of Massachusetts and represent the interests of business on the Council.

The Advisory Council is a volunteer board comprised of leaders from labor and business, as well as representatives from the legal, medical, insurance and vocational rehabilitation communities. Each month, Council Members come together to discuss a variety of workers' compensation issues with the ultimate goal of reaching a consensus. When compromise can be reached between labor and business, these positions are reflected in our recommendations.

We are here today to describe the Division of Industrial Accidents and express our concerns regarding how the DIA's line-item is treated during the Commonwealth's budget process. A common misconception made is that the DIA is a tax-funded agency and that reducing its funding, specifically across the board cuts, will help alleviate budget shortfalls in Massachusetts. This is entirely untrue.

As exhibited in the attached chart, the DIA administers three separate budgets, which are funded solely by assessments on workers' compensation policies, fines for various infractions against the Workers' Compensation Act, and fees. The three funds are made up of the Special Fund, the Private Trust Fund, and the Public Trust Fund. The Special Fund is used to pay for the operation of the agency. The Trust Funds were established so the DIA can make payments to uninsured-injured employees and employees denied vocational rehabilitation services by their insurers. In addition, the Trust Fund is required to reimburse insurers for benefits for injuries involving veterans, second injuries, and for specified cost of living adjustments. One account is reserved for payments to private sector employees, while the other account is for payments to public sector employees.

During the fiscal year 2002 budget process, the Legislature's Budget Conference Committee reduced the DIA's line-item by over \$1.0 million as a result of an across the board cut from all previous amounts proposed. Although the Governor later restored this funding in a supplemental budget, the overall efficiency and effectiveness of the DIA in

assisting injured workers was jeopardized when the DIA's account was apparently misconstrued and treated as a tax-funded agency rather than a totally assessment-funded organization.

In the Workers' Compensation Reform Act of 1985, the Commonwealth's employer community agreed to be assessed to pay for the DIA to ensure that it would always have adequate funding to fulfill its mandate. As part of that agreement, the law also established the Workers' Compensation Advisory Council as an oversight board to monitor and evaluate the DIA's operating budget and performance. The Advisory Council remains committed in monitoring the fiscal year 2004 budget process to ensure the DIA can provide effective services to injured workers and to all employers. Any effort to increase or decrease the DIA's funding will be carefully scrutinized to ensure that the agency will have adequate funding to fulfill its statutory mandate.

In closing, the Advisory Council would like all parties involved in the state budget process to recognize that the DIA is funded by an assessment on employers which is based on an amount determined to be adequate for the operation of the DIA. There are **no tax dollars** used to fund this agency or any of its activities, as the DIA's Special Fund is used to reimburse the Commonwealth's General Fund for 100% of its budgeted appropriation.

On behalf of the Advisory Council, I would like to thank the Office of Commerce & Labor for holding this hearing and allowing us the opportunity to share our recommendations. We will be happy to answer any questions.

APPENDIX J

Workers' Compensation Organizations

The following are government, private, and non-profit organizations that have a role in the Massachusetts workers' compensation system. Many of the organizations below are advocacy groups funded by a specific group to represent and promote their particular view.

This is meant to be informative only, and is by no means an exhaustive list of all groups involved with workers' compensation. Inclusion of an organization's name does not indicate an endorsement of any particular viewpoint or organization, nor does it relate to their effectiveness or reliability in advocating a particular view.

The categories are Massachusetts State Government, Insurance, Medical, Public Policy/Research, Fraud, Safety, Legal, and Federal Government/National Organizations.

Massachusetts State Government

Massachusetts Workers' Compensation Advisory Council

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x378 Web Page: <http://www.state.ma.gov/wcac/>

The Advisory Council is a labor-management committee appointed by the Governor to monitor, make recommendations, give testimony, and report on all aspects of the workers' compensation system, except the adjudication of particular claims or complaints, and to improve the workers' compensation system in the Commonwealth.

Division of Industrial Accidents (DIA)

600 Washington Street, Boston, MA 02111 (Boston Office)

Phone: 617-727-4900 Info: 800-323-3249 x470 Web Page: <http://www.state.ma.gov/dia/>

The Division of Industrial Accidents administers the Commonwealth's workers' compensation system. The DIA provides prompt and rational compensation to victims of occupational injuries and illness, and oversees that medical treatment to injured workers is provided in a timely manner while balancing the needs of employers to contain workers' compensation insurance costs.

Joint Committee on Commerce and Labor

State House, Room 43, Boston, MA 02133

Phone: 617-722-2030 Web Page: <http://www.state.ma.gov/legis/comm/j12.htm>

The Commerce and Labor Committee consists of elected state representatives and senators. It is their duty to consider all matters concerning commercial, industrial and mercantile establishments, industrial development, consumer protection, and discrimination with respect to employment, labor laws and other such matters.

Office of the Governor

State House, Room 360, Boston, MA 02133

Phone: 617-727-7238 Web Page: <http://www.state.ma.gov/gov>

The Governor appoints the Director of Labor, the Director of Economic Development, the Commissioner of the DIA, Administrative Judges and Administrative Law Judges of the DIA, as well as the members of the Workers' Compensation Advisory Council.

Governor's Council

State House, Room 184, Boston, MA 02133

Phone: 617-727-2795 Web Page: <http://www.state.ma.gov/gov/govco.htm>

The Massachusetts Governor's Council, also known as the Executive Council, is composed of eight individuals elected from districts, and the Lt. Governor who serves ex officio. The eight councilors are elected from their respective districts every two years. The Council generally meets at noon every Wednesdays in its State House Chamber, next to the Governor's Office, to act upon such issues as payments from the state treasury, criminal pardons and commutations, and approval of gubernatorial appointments; such as judges, notaries, and justices of the peace. All DIA judges are appointed by the Governor subject to the consent & approval of the Governor's Council.

Department of Labor and Workforce Development

One Ashburton Place, Boston, MA 02108

Phone: 617-727-6573 Web Page: <http://www.state.ma.gov/dlwd/>

The Department of Labor and Workforce Development is charged with promoting and protecting the legal, safety, health and economic interests of the Commonwealth's workers, and preserving productive and fair paying jobs. The Division of Industrial Accidents is one of five departments that fall under the Department of Labor and Workforce Development. The Director of Labor is an ex-officio member of the Workers' Compensation Advisory Council.

Massachusetts Rehabilitation Commission

59 Temple Place, Boston, MA 02111

Phone: 617-482-1780 Web Page: <http://www.state.ma.gov/mrc/>

The mission of the MRC is to provide comprehensive services with and for persons with disabilities toward the goal of employment and independence. In cooperation with other public and private human service organizations, the MRC promotes its ultimate vision of equality, empowerment and productive independence of individuals with disabilities.

Department of Business and Technology

One Ashburton Place, Boston, MA 02108

Phone: 617-727-8380 Web Page: <http://www.state.ma.gov/dbt/>

The Department of Economic Development and its offices and divisions seek to promote job creation and long-term economic growth in Massachusetts. It seeks to attract new businesses to the state, help existing businesses expand, assist emerging firms in obtaining the human, financial, and technological resources necessary to prosper and grow, and provide assistance and training to the unemployed and underemployed. The Director of Economic Development is an ex-officio member of the Workers' Compensation Advisory Council.

Office of the Attorney General

One Ashburton Place, Boston, MA 02108

Phone: 617-727-2200 Web Page: <http://www.state.ago.state.ma.gov/>

The Attorney General's office prosecutes workers' compensation fraud and enforces state labor laws. It also held a series of meetings for its task force on waste, fraud, and abuse in the workers' compensation system. A series of "White Papers" are available from the office on issues brought up at those meetings.

Insurance

Division of Insurance (DOI)

One South Station, 5th floor, Boston, MA 02110

Phone: 617-521-7794 Web Page: <http://www.state.ma.us/doi/>

The DOI regulates all insurance programs and monitors and licenses self-insurance groups. The **State Rating Bureau** is an office within the DOI that testifies at rate hearings with respect to insurance rates. The Commissioner of DOI holds hearings on rate filings and issues a decision.

DIA - Office of Insurance

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x371

Issues annual licenses for self-insurance; monitors insurance complaints; maintains the insurer register.

DIA - Office of Investigations

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x409

Issues stop work orders and fines employers without workers' compensation insurance.

The Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIB)

101 Arch Street, 5th floor, Boston, MA 02110

Phone: 617-439-9030 Web Page: www.wcribm.org

Private non profit body funded by insurers;

- Licensed rating organization for workers' compensation; WCRIB submits workers' compensation insurance rates, rating plans, and forms for approval (rates are subject to approval by the Commissioner of Insurance);
- WCRIB is the statistical agent for workers' compensation for the Commissioner of Insurance;
- Administers assigned risk pool; designates insurance carriers for employers who cannot obtain policy in voluntary market;
- Collects statistical data from insurers;
- NCCI handles some of the accounting procedures for the pool.

National Council on Compensation Insurance (NCCI)

750 Park of Commerce Drive, Boca Raton, FL 33487

Phone: 407-997-1000 Web Page: <http://www.ncci.com/index.html>

NCCI is a national organization devoted to workers' compensation insurance. It has a somewhat limited role in Massachusetts:

- Does some of the accounting for the assigned risk pool under contract with the WCRIB;
- Determines residual market loss reserves.
- In 34 other states, NCCI is the organization that files for insurance rates or loss costs (in Massachusetts, it is the WCRIB that files for rate changes);
- NCCI also administers various state funds where the state acts as an insurance carrier for workers' compensation.

Medical

Division of Health Care Finance and Policy

2 Boylston Street, Boston, MA 02116

Phone: 617-451-5340 Web Page: <http://www.state.ma.gov/dhcfp/>

The Division of Health Care Finance and Policy (formerly the Rate Setting Commission) sets reimbursement rates for medical services in workers' compensation.

DIA - The Health Care Services Board

Phone: 617-727-4900 x578 Web Page: <http://www.state.ma.gov/dia/hcsb>

This office coordinates the utilization review program, the Medical Consultant Consortium, and the Health Care Services Board at the DIA.

Massachusetts Medical Society

1440 Main Street, Waltham, MA 02154-1649

Phone: 781-893-4610 / 800-322-2303 Web Page: <http://www.massmed.org/>

Private, non-profit professional association represents the Massachusetts physician community.

Massachusetts Hospital Association

5 New England Executive Park, Burlington, MA 01803

Phone: 781-272-8000 Web Page: <http://www.mhalink.org>

The Massachusetts Hospital Association (MHA) is a voluntary, non-profit organization comprised of hospitals and health systems, related organizations, and other members with a common interest in promoting the health of the people of the Commonwealth.

Massachusetts Orthopedic Association

45 Broad Street, Boston, MA 02109

Phone: 617-451-9663

Private, non-profit professional association representing physicians practicing in the specialty area of orthopedic surgery.

Massachusetts Chiropractic Society

76 Woodland Street, Methuen, MA 01844-4295

Phone: 978-682-8242 / 800-442-6155 Web Page: <http://www.masschiro.org>

The Massachusetts Chiropractic Society a non-profit membership service organization representing the chiropractic profession in Massachusetts. The Society's principle function is to maintain the standards in education, ethics, and professional competency necessary to meet the requirements of the profession and the expectations of the general public.

American Physical Therapy Association of Massachusetts

14 Beacon Street, Suite 719, Boston, MA 02108

Phone: 617-523-4285 National Chapter: 800-999-2782 Web Page: <http://aptaofmass.org>

The American Physical Therapy Association of Massachusetts Inc., with more than 2200 members, is a component of the American Physical Therapy Association. APTA's goal is to foster advancement in physical therapy practice, education, and research.

American Occupational Therapy Association

4270 Montgomery Lane, P.O. Box 31220, Bethesda, MD 20824-1220

Phone: 301-652-2682 Web Page: <http://www.nih.gov/nia/related/aoaresrc/dir/45.htm>

The American Occupational Therapy Association (AOTA) supports the professional community for occupational therapists and develops and preserves the viability and relevance of the profession. The organization serves the interests of its members, represents the profession to the public, and promotes access to occupational therapy services.

Public Policy/ Research

Workers' Compensation Research Institute (WCRI)

955 Massachusetts Avenue, Cambridge, MA 02139

Phone: 617-661-9274 Web Page: <http://www.wcrinet.org>

WCRI is a nonpartisan, non-profit public policy research organization funded primarily by employers and insurers. The WCRI research takes several forms, according to their statement of purpose: "original research studies of major issues confronting workers' compensation systems; original studies of individual state systems where policy makers have shown an interest in reform and where there is an unmet need for that objective information; source book that brings together information from a variety of sources to provide unique, convenient reference works on specific issues; periodic research briefs on significant new research, data, and issues in the field." (WCRI Annual Report/Research Review, 1992).

Associated Industries of Massachusetts (AIM)

Workers' Compensation Oversight Committee

222 Berkeley Street, P.O. Box 763, Boston, MA 02117

Phone: 617-262-1180 Web Page: <http://www.aimnet.org>

The Associated Industries of Massachusetts is a dues-supported, non-profit, nonpartisan employers' association dedicated to improving the Commonwealth's economic climate.

Massachusetts AFL-CIO

8 Beacon Street, Boston, MA 02108

Phone: 617-227-8260 Web Page: <http://www.massafcio.org>

Umbrella organization represents its member local offices of unions in Massachusetts.

International Association of Industrial Accident Boards and Commissions (IAIABC)

1201 Wakarusa, C-3, Lawrence, KA 66049

Phone: 904-252-2915 Web Page: <http://www.iaiabc.org>

The International Association of Industrial Accident Boards and Commissions serves the needs of the workers compensation system through promoting efficient and farsighted regulation and administration of the law.

Fraud

Insurance Fraud Bureau of Massachusetts (IFB)

101 Arch Street, Boston, MA 02110

Phone: 617-439-0439 (1-800-32FRAUD) Web Page: <http://www.ifb.org>

The Insurance Fraud Bureau of Massachusetts is a multifaceted investigative agency dedicated to the systematic elimination of fraudulent insurance transactions. Authorized by an Act of the Massachusetts Legislature and signed into law in 1990, the Insurance Fraud Bureau undertakes cases for investigation and preparation for criminal prosecution. The Bureau is wholly funded by the insurance industry in Massachusetts.

Safety

Office of the Attorney General - Business and Labor Protection Bureau

Fair Labor and Business Practices Division, 200 Portland Street, Boston, MA 02114

Phone: 617-727-3477 Web Page: <http://www.ago.state.ma.gov/ago5.htm>

The Business and Labor Protection Bureau investigates and prosecutes violations of child labor laws and work-related injuries to minors, grants workplace procedure waivers, inspects workplace safety on construction sites, industrial sites and in the manufacturing industry. They also prosecute egregious cases of violations of industrial workplace safety and may shut down a job site in cases of imminent danger to the safety of employees or the public.

DIA - Office of Safety

Phone: 617-727-4900 x377

The function of the Office of Safety is to reduce work related injury and illnesses by “establishing and supervising programs for data collection on workplace injuries and for the education and training of employees and employers in the recognition, avoidance and prevention of unsafe or unhealthy working conditions in employment and advising employees and employers on these issues.” (M.G.L. c. 23E, 3(6)).

Massachusetts Coalition of Occupational Safety and Health (MassCOSH)

555 Armory Street

Boston, MA 02130

Phone: 617-825-7233 Web Page: <http://www.masscosh.org>

The following safety councils provide publications, videos, training programs, speakers and other information for a fee.

- *Safety Council of Western Massachusetts* (Springfield) 413-737-7908
- *National Safety Council*, Central MA Chapter (West Boylston) 508-835-2333
- *Massachusetts Safety Council* (Braintree) (Serves Eastern MA) 617-356-1633
- *American Society of Safety Engineers* (ASSE) is a non profit association that provides monthly educational seminars and training. It can be reached through the local safety councils.

Legal

Massachusetts Bar Association

Workers' Compensation Committee

20 West Street, Boston, MA

Phone: 617-542-3602 Web Site: <http://www.massbar.org>

The Massachusetts Bar Association is the statewide voluntary professional association for all lawyers, in all types of practice, in all areas of law.

Massachusetts Academy of Trial Attorneys

15 Broad Street, Suite 415, Boston, MA 02109

Phone: 617-248-5858 Web Site: <http://www.massacademy.com>

Private, non-profit professional association represents the plaintiff's attorneys in Massachusetts.

Federal Government / National Organizations

While most programs for workers' compensation are administered at the state level, there are various safety, labor, and workers' compensation programs administered by the federal government.

U.S. Department of Labor

Employment Standards Administration

Office of Workers' Compensation Programs

Division of Planning, Policy and Standards

200 Constitution Avenue, N.W., Washington, D.C. 20210

Phone: 202-219-7491 Web Site: <http://www.dol.gov>

The Division of Planning, Policy and Standards at the Office of Workers' Compensation Programs serves as a liaison to the states regarding state workers' compensation matters. They produce two major publications: State Workers' Compensation Administration Profiles and State Workers' Compensation Laws.

The Office of Workers' Compensation Programs also administers three other divisions: Division of Longshore and Harbor Workers' Compensation (202-219-8721); Division of Federal Employee's Compensation (202-219-7552); and the Division of Coal Mine Workers' Compensation (202-219-6692).

Occupational Safety and Health Administration (OSHA)

200 Constitution Avenue, N.W.,

Washington, D.C. 20210

Regional Office: 133 Portland Street

Boston, MA 02114

Phone: 617-565-7164 Web Site: <http://www.osha.org>

National Institute for Occupational Safety and Health (NIOSH)

944 Chestnut Ridge Road,

Morgantown, WV 26505-2888

Phone: 800-356-4674 Web Site: <http://www.cdc.gov/niosh/homepage.html>

Federal agency under the Department of Health and Human Service. Clearinghouse information on workplace safety, health, and illness.

Occupational Health Foundation

815 16th Street, N.W. Suite 312

Washington, D.C. 20006

Phone: 202-842-7840

The OHF is a labor-sponsored, non-profit organization delivering service to the American labor movement and individual members of the workforce. OHF's mission is to improve occupational safety and health conditions for workers. (OHF 1993 Annual Program Report)

United States Chamber of Commerce

1615 H Street, N.W.,

Washington, D.C. 20062-2000

Phone: 202-659-6000 Web Site: <http://www.uschamber.com>

Publishes an analysis of state workers' compensation statutes.

APPENDIX K

Office of Safety Proposals Recommended for Funding - FY 2004

1. Caritas Good Samaritan Occupational Health Services
75 Stockwell Drive
Avon, MA 02322
(508) 427-3900
Title: Occupational Safety and Health Training and Education Program
Category of Applicant: Non-profit
Target Population: Employees/Supervisors/Employers
Geographic Target: Statewide
Program Administrator: Kathleen Pacheco
Total Funds Requested: \$28,116.80 **Approved:** \$28,116.80

2. Asbestos Workers, Local #43
1053 Burts Pit Road
Northampton, MA 01060-3630
(413) 584-0028
Title: Preventing Asbestos Related Disease for Building Trades Workers in
Western, MA
Category of Applicant: Labor Organization/Federation
Target Population: Employees
Geographic Target: Worcester/Lawrence/Springfield
Program Administrator: Robert Starr
Total Funds Requested: \$19,330.64 **Approved:** \$19,330.64

3. Hebrew Rehabilitation Center for the Aged
12 Centre Street
Boston, MA 02131
(617) 363-8475
Title: Ergonomic Training Program
Category of Applicant: Private Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Boston
Program Administrator: Maria Parasirakis
Total Funds Requested: \$30,000.00 **Approved:** \$30,000.00

4. Pioneer Valley Central Labor Council
640 Page Blvd.
Springfield, MA 01104
(413) 732-7970
Title: Keep Safe: Health and Safety on the Job
Category of Applicant: Labor Organization
Target Population: Employees
Geographic Target: Springfield
Program Administrator: Irene Kimball
Total Funds Requested: \$13,723.26 **Approved:** \$13,723.26

5. Genzyme Corporation
11 Pleasant Street Connector
Framingham, MA 01701-9322
(508) 270-2356
Title: Ergonomic Training to Prevent Work Related Musculo-skeletal Injuries
Category of Applicant: Private Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Fall River, Boston
Program Administrator: Linda Devlin
Total Funds Requested: \$30,000.00 **Approved:** \$30,000.00

6. Electrical JATC
187 Industrial Avenue
Springfield, MA 01104
(413) 737-2253
Title: Safety Issues for Electricians
Category of Applicant: Labor Organization
Target Population: Employees
Geographic Target: Springfield
Program Administrator: Ron Grise
Total Funds Requested: \$29,596.50 **Approved:** \$29,596.50

7. Acushnett Company
333 Bridge Street
Fairhaven, MA 02719
(508) 979-2358
Title: Ergonomic Training to Prevent Musculo-Skeletal Injuries
Category of Applicant: Private Employer
Target Population: Employees/Safety Committee
Geographic Target: Fall River
Program Administrator: Kathleen Kellerman
Total Funds Requested: \$28,759.50 **Approved:** \$28,759.00

8. North Andover Fire Department
124 Main Street
North Andover, MA 01845
(978) 688-9590
Title: Chemical Awareness & CPR for North Andover School Custodians
Category of Applicant: Public Employer
Target Population: Employees/Supervisors
Geographic Target: Lawrence
Program Administrator: William Dolan
Total Funds Requested: \$5,631.64 **Approved:** \$6,416.16

9. Intercity Homemaker Service, Inc.
33 Dartmouth Street
Malden, MA 02148
(781) 321-6300, ext. 149
Title: Ergonomic Training for Musculo-skeletal Disorders
Category of Applicant: Private Employer
Target Population: Employees/Supervisors
Geographic Target: Boston
Program Administrator: Annamaria Georgopoulos
Total Funds Requested: \$15,675.00 **Approved:** \$15,675.00

10. Quadrant Health Strategies, Inc.
34 Salem Street
Wilmington, MA 01887
(978) 988-8832
Title: Ergonomic Training to Prevent Musculoskeletal Injuries
Category of Applicant: Private Employer
Target Population: Employees/Employer
Geographic Target: Fall River
Program Administrator: Rena Hannaford
Total Funds Requested: \$29,643.00 **Approved:** \$29,462.50

11. Advanced Therapeutic Resources
100 Main Street, Suite 16
Amesbury, MA 01913
(508) 388-6775
Title: Improving Safety Awareness at Seven Different Companies
Category of Applicant: Private Employer
Target Population: Employees/Supervisors
Geographic Target: Boston
Program Administrator: Trish Going
Total Funds Requested: \$30,000.00 **Approved:** \$30,000.00

12. Henry Lee Willis Community Center, Inc.
119 Forest Street
Worcester, MA 01609
(508) 799-0702
Title: A Program to Reduce Injuries and Lost Workdays Due to Resident Aggression
Category of Applicant: Private Employer
Target Population: Employees/Employers
Geographic Target: Statewide
Program Administrator: Carlton Watson
Total Funds Requested: \$29,704.00 **Approved:** \$29,704.00

13. Franklin Regional Council of Governments
425 Main Street
Greenfield, MA 01301
(413) 774-3167
Title: Preventing Occupational Injury & Building Safety Awareness in
Franklin County Towns and Schools
Category of Applicant: Public Employer
Target Population: Employees/Supervisors/Employers
Geographic Target: Springfield
Program Administrator: Lisa White
Total Funds Requested: \$25,480.25 **Approved:** \$25,480.25

14. Haemonetics Corporation
400 Wood Road
Braintree, MA 02184
(781) 848-7100
Title: Implementation of Ergonomics and Injury Prevention at Haemonetics
Category of Applicant: Private Employer
Target Population: Employees/Supervisors
Geographic Target: Boston
Program Administrator: Mitch Campbell
Total Funds Requested: \$19,350.00 **Approved:** \$19,350.00

15. MA Bay Self-Insurance Group, Inc.
12 Gill Street, Suite 5500
Woburn, MA 01888-4043
(781) 938-0900
Title: Prevention of Musculo-skeletal Disorders through Ergonomic Training
Category of Applicant: Non-profit
Target Population: Employees/Supervisors
Geographic Target: Statewide
Program Administrator: Kathleen Meloon
Total Funds Requested: \$21,225.00 **Approved:** \$21,225.00

16. Operating Engineers, Local 98
2 Center Square
E. Longmeadow, MA 01028
(413) 525-4221
Title: Homeland Security Health and Safety Awareness Program
Category of Applicant: Joint Labor Management Committee
Target Population: Employees
Geographic Target: Springfield
Program Administrator: Michael J. Florio
Total Funds Requested: \$28,454.16 **Approved:** \$28,454.16

17. Acushnett Rubber dba Precix, Inc.
744 Belleville Street
New Bedford, MA 02745
(508) 998-4095
Title: Ergonomic Training to Prevent Musculo-Skeletal Injuries, First-Aid, CPR
Category of Applicant: Private Employer
Target Population: Employees/Supervisors/Safety Team
Geographic Target: Fall River
Program Administrator: Lou Cabot
Total Funds Requested: \$30,000.00 **Approved:** \$30,000.00
18. Envirobusiness, Inc.
701 Concord Avenue
Cambridge, MA 02138
(617) 868-4321
Title: Ergonomics and Bloodborne Pathogens Safety Training Program
Category of Applicant: Private Employer
Target Population: Employees
Geographic Target: Statewide
Program Administrator: Kevin McManus
Total Funds Requested: \$29,157.00 **Approved:** \$29,157.00
19. Mt. Wachusett Community College
444 Green Street
Gardner, MA 01440-1000
(978) 632-6600
Title: Computer based Safety Training and Stress Management Program
Category of Applicant: Public Employer
Target Population: Employees/Supervisor
Geographic Target: Worcester
Program Administrator: Diane Greb
Total Funds Requested: \$18,000.00 **Approved:** \$18,000.00
20. Minuteman Tech High School
758 Marrett Road
Lexington, MA 02173
(781) 861-6500, ext. 348
Title: Occupational Safety and Health Education and Training
Category of Applicant: Public Employer
Target Population: Employees/Supervisors
Geographic Target: Boston
Program Administrator: Carol Zanin
Total Funds Requested: \$29,950.00 **Approved:** \$29,950.00

21. Mass Compliance, LLC
P.O. Box 609
West Falmouth, MA 02574
(978) 857-9552
Title: Hazwopper Training for Three Private Companies
Category of Applicant: Private Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Statewide
Program Administrator: Beth Comeau DiPietro
Total Funds Requested: \$29,719.10 **Approved:** \$29,719.10

22. The Mitre Corporation
202 Burlington Road
Bedford, MA 01730
(781) 271-3028
Title: Ergonomic Training to Prevent Musculo-skeletal Injuries
Category of Applicant: Non-profit
Target Population: Employees/Supervisors/Safety Committee
Geographic Target: Boston
Program Administrator: Joyce Barth
Total Funds Requested: \$24,565.50 **Approved:** \$24,565.50

23. City of Worcester, City Hall
455 Main Street
Worcester, MA 01608
(508) 799-1185
Title: Tips on the Prevention of Workplace Back Injuries/Sprains and Strains
Category of Applicant: Non-profit/Public Employer
Target Population: Employees
Geographic Target: Worcester
Program Administrator: Lisa Carmody
Total Funds Requested: \$10,363.00 **Approved:** \$10,363.00

24. Labor-Management Construction Alliance
256 Freeport Street
Boston, MA 02122
(617) 436-4159
Title: Workplace Hazard Education for Construction Workers
Category of Applicant: Non-profit
Target Population: Employees
Geographic Target: Statewide
Program Administrator: Mary Vogel
Total Funds Requested: \$29,953.00 **Approved:** \$29,953.00

25. Brunetta Associates
15 Houston Street
Methuen, MA 01844
(978) 688-8745
Title: Occupational Safety and Health Education and Training Program
Category of Applicant: Private Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Statewide
Program Administrator: Anthony Brunetta
Total Funds Requested: \$29,972.50 **Approved:** \$29,972.50
26. Printing Industries of New England
8 Crystal Pond Road
Southborough, MA 01772
(508) 404-4100
Title: Lockout/Tagout Training for the Printing Industries
Category of Applicant: Non-profit Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Statewide
Program Administrator: Mark Flannery
Total Funds Requested: \$19,546.00 **Approved:** \$19,546.00
27. MKS
6 Shattuck Road
Andover, MA 01810
(978) 975-2350
Title: OSHA Outreach Training
Category of Applicant: Public Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Lawrence
Program Administrator: Daniel Shea
Total Funds Requested: \$29,125.00 **Approved:** \$29,125.00
28. Office of the Attorney General
One Ashburton Place
Boston, MA 02108-1698
(617) 727-5768 ext. 2031
Title: Occupational Safety and Health Education and Training Program
Category of Applicant: Public Employer
Target Population: Employees/Employers/Supervisors
Geographic Target: Statewide
Program Administrator: Joseph Shea
Total Funds Requested: \$18,850.50 **Approved:** \$18,850.50

29. Western MassCOSH
640 Page Boulevard
Springfield, MA 01104
(413) 731-0760
Title: Training to Protect the Health and Safety of Employees in the City of
Chicopee, MA
Category of Applicant: Non Profit
Target Population: Employees/Supervisors
Geographic Target: Springfield
Program Administrator: Aaron Wilson
Total Funds Requested: \$2,275.00 **Approved:** \$2,275.00
30. Family Services of Fall River Home Assistance Program
151 Rock Street
Fall River, MA 02720
(508) 678-7542
Title: Health and Safety Training
Category of Applicant: Private Employer
Target Population: Employees/Supervisors
Geographic Target: Fall River
Program Administrator: Susan Potvin
Total Funds Requested: \$29,969.50 **Approved:** \$29,969.50
31. Boston Carpenters Apprenticeship & Training
385 Market Street
Brighton, MA 02135
(617) 782-4314
Title: Occupational Safety and Health Training Program
Category of Applicant: Labor/Management
Target Population: Employees/Supervisors/Employer
Geographic Target: Statewide
Program Administrator: Benjamin Tilton
Total Funds Requested: \$29,730.60 **Approved:** \$29,730.60
32. Bridgewater State College
Boyden Hall
Office of Environmental Safety
Bridgewater, MA 02325
(508) 531-2751
Title: Slips, Trips, Falls and Lifting/Back Repetitive Motion Injuries Prevention
Program
Category of Applicant: Public Employer
Target Population: Employees/Employers
Geographic Target: Bridgewater
Program Administrator: Patricia Delaney
Total Funds Requested: \$26,253.64 **Approved:** \$26,253.64

33. Sargent and Associates
23 Chelmsford Street
Chelmsford, MA 01824
(978) 256-7459
Title: Ergonomics Training for EMT's, Paramedics, and Wheelchair Van Operators
Category of Applicant: Private Employer
Target Population: Employees/Supervisors/Employers
Geographic Target: Lawrence
Program Administrator: William Russell
Total Funds Requested: \$15,306.00 **Approved:** \$15,306.00
34. Compliance Integration
12 Williams Street
Beverly, MA 01915
(978) 821-4714
Title: Occupational Safety and Health Training
Category of Applicant: Private Employer
Target Population: Employees/Supervisors/Employer
Geographic Target: Lawrence
Program Administrator: Cindy Keegan
Total Funds Requested: \$23,150.00 **Approved:** \$14,049.89

Budget Subsidiaries

Subsidiary AA: Regular Employee Compensation

Includes regular compensation for employees in authorized positions including regular salary, overtime, and other financial benefits. All expenditures for this subsidiary must be made through the payroll system.

Subsidiary BB: Regular Employee Related Expenses

This subsidiary includes reimbursements to employees and payments on behalf of employees with the exception of pension and insurance related payments. This includes out of state travel (airfare, lodging, other); in state travel; overtime meals; tuition; conference, training, and registration; membership dues, etc.

Subsidiary CC: Special Employees/ Contracted Services

Payments to individuals employed on a temporary basis through contracts as opposed to authorized positions paid through subsidiary AA. Includes contracted faculty; contracted advisory board/commission members; seasonal; student interns, etc. (These employees are generally not eligible for benefits.)

Subsidiary DD: Pension and Insurance-Related Expenditures

Pension and insurance related expenditure for former and current employees and beneficiaries. Includes retirement, health and life insurance, workers' compensation benefits; medical expenses; universal health insurance charge-back; universal health insurance payments, etc.

Subsidiary EE: Administrative Expenses

Expenses associated with divisional operations. Includes office and administrative supplies; printing expenses and supplies; micrographic supplies; central reprographic charge-back; postage, telephone, software, data processing; subscriptions and memberships; advertising; exhibits/displays; bottled water.

Subsidiary GG: Energy Costs and Space and Rental Expenses

Plant operations, space rentals, utilities, and vehicle fuel. Includes fuel for buildings; heating and air conditioning; sewage and water bills, etc.

Subsidiary HH: Consultant Services

Outside professional services for specific projects for defined time periods, incurred when services are not provided by, or available from state employees. Consultants advise and assist departments but do not provide direct services to clients. Includes accountants; actuaries/statisticians; information technology professionals; advertising agency; arbitrators; architects; attorneys; economists; engineers; health/safety experts; honoraria for visiting speakers; researchers; labor negotiators; management consultants; medical consultants, etc.

Subsidiary JJ: Operational Services

Expenditures for the routine functioning of the Division. Services are provided by non-employees (individuals or firms) generally by contractual arrangements, except when authorized by statute or regulation. Includes movers; snow removal services; messenger services; law enforcement (detail officer).

Subsidiary KK: Equipment Purchase

Purchase and installation of equipment. (See LL for equipment lease, repair.) Includes information technology equipment (computers, software); educational equipment (overhead projectors, tape recorders); photocopying equipment, office equipment, etc.

Subsidiary LL: Equipment Lease-Purchase, Lease and Rental, Maintenance and Repair

Includes expenditures for the lease-purchase, lease, rental, maintenance and repair of equipment. Includes information technology equipment (computers, software); educational equipment (overhead projectors, tape recorders); photocopying equipment, office equipment, etc.

APPENDIX M

COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2003

SPECIAL FUND	FY'03	FY'02	FY'01	FY'00	FY'99
<u>COLLECTIONS</u>					
INTEREST	209,426	342,449	932,637	959,382	808,450
ASSESSMENT	23,213,608	16,031,304	14,427,829	16,363,865	16,154,391
LESS RET. CHECKS	0	(2,789)	(9,320)	0	(2,032)
LESS REFUNDS	(20,171)	(258,971)	(332,081)	(6,666)	(35,059)
SUB-TOTAL	23,193,437	15,769,544	14,086,428	16,357,199	16,117,300
FILING FEES	5,264,175	4,254,978	4,431,724	4,102,258	3,840,649
COLLECTION FEE	(21,944)	(23,705)	(18,778)	(16,073)	(20,873)
LESS RET. CHECKS	(6,610)	(2,739)	(1,027)	(2,044)	(1,486)
LESS REFUNDS	(7,480)	(7,325)	(7,368)	(9,319)	(3,784)
SUB-TOTAL	5,228,141	4,221,209	4,404,551	4,074,822	3,814,506
1ST REPORT FINES	179,750	333,515	378,050	378,310	321,593
LESS COLLECTION FEE	(5,798)	(12,460)	(13,100)	(14,550)	(14,111)
LESS RET. CHECKS	0	(1,640)	(500)	(500)	(200)
LESS REFUNDS	(200)	(700)	(200)	(1,100)	(100)
SUB-TOTAL	173,752	318,715	364,250	362,160	307,182
STOP WORK ORDERS	637,426	393,340	465,961	392,343	480,995
LESS REFUNDS	(1,750)	(423)	0	(1,100)	(100)
LESS BAD CHECKS	(29,962)	(5,250)	(12,208)	(18,130)	(10,233)
COLLECTION FEE	(72,156)	(25,842)	(50,639)	(52,816)	(73,031)
SUB-TOTAL	533,558	361,825	403,114	320,297	397,631
LATE ASSESS. FINES	19,574	28,124	36,661	24,611	40,698
SEC. 7 & 14 FINES	5,700	0		7,912	(13,600)
MISCELLANEOUS	43,800	56,120	43,472	42,526	31,765
SUB-TOTAL	69,074	84,244	80,133	75,049	58,863
TOTAL COLLECTIONS	29,407,388	21,097,986	20,271,113	22,148,909	21,503,932
BALANCE BRGT FWD	7,638,265	10,065,860	12,725,215	11,785,359	10,915,459
TOTAL	37,045,653	31,163,846	32,996,328	33,934,268	32,419,391
LESS EXPENDITURES	(22,316,917)	(23,525,582)	(22,930,468)	(21,209,053)	(20,634,032)
BALANCE	14,728,736	7,638,264	10,065,860	12,725,215	11,785,359
<u>EXPENDITURES</u>					
ORACLE START-UP	936,853	2,731,097			
ORACLE SOFTWARE			408,754		
UNISYS CORP.			23,264		
ORACLE CONSULTANTS			825,000		
SUN MICROSYSTEMS			4,264		
TOTAL	936,853	2,731,097	1,261,282		
<u>REPAYMENT</u>					
SALARIES	13,788,158	13,644,820	13,158,744	13,003,221	12,607,469
FRINGE BENEFITS	2,969,507	2,965,931	3,798,264	3,104,485	3,016,856
INDIRECT COSTS	405,376	285,004	332,090	466,539	410,052
NON-PERSONNEL COSTS	4,171,404	3,872,690	4,348,884	4,584,213	4,599,654
IP INDIRECT-EX	45,619	29,528	31,204	50,595	
ADJUSTMENT		(3,488)			
TOTAL REPAYMENT	21,380,064	20,794,485	21,669,186	21,209,053	20,634,031

COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2003

PUBLIC TRUST	FY'03	FY'02	FY'01	FY'00	FY'99
<u>COLLECTIONS</u>					
INTEREST	2,924	5,376	21,904	3,135	6,322
ASSESSMENTS	2,094,687	3,376,503	3,103,066	1,981,649	2,422,464
REFUNDS	0	(39,494)			
BD CHECKS		0	0	0	0
TOTAL ASSESSMENTS	2,094,687	3,337,009	3,103,066	1,981,649	2,422,464
TOTAL COLLECTIONS	2,097,611	3,342,385	3,124,970	1,984,784	2,428,786
BALANCE BRGT FWD	37,945	56,716	25,572	15,984	3,078
TOTAL	2,135,556	3,399,101	3,150,542	2,000,768	2,431,864
LESS EXPENDITURES	(2,122,546)	(3,361,156)	(3,093,826)	(1,975,196)	(2,415,880)
BALANCE	13,010	37,945	56,716	25,572	15,984
<u>EXPENDITURES</u>					
RR COLAS	2,106,371	3,249,773	3,023,919	1,758,754	1,986,675
RR SEC. 37	16,175	111,383	69,907	182,203	329,406
RR SEC. 19 COLA	0	0	0	34,239	99,799
RR REHAB			0	0	0
SHELBY CLAIMS					
MM IME SEC 37			0	0	0
TOTAL EXPENDITURES	2,122,546	3,361,156	3,093,826	1,975,196	2,415,880

PRIVATE TRUST	FY'03	FY'02	FY'01	FY'00	FY'99
<u>COLLECTIONS</u>					
INTEREST	266,311	511,003	1,246,983	1,077,109	684,536
ASSESSMENTS	41,155,377	41,651,141	39,778,971	40,602,911	45,753,726
LESS RET. CHECKS	0	(6,533)	(60,437)	0	(99,739)
LESS REFUNDS	(45,402)	(820,175)	(994,294)	(209)	0
SUB-TOTAL	41,109,975	40,824,433	38,724,240	40,602,702	45,653,987
REIMBURSEMENTS	698,536	922,936	547,085	1,015,647	1,535,973
LESS COLLECTION FEE	(220)	(783)	(1,005)	(1,554)	(68,582)
RET. CHECK	(1,000)	(5,290)	(6,193)	(5,978)	(68,163)
REFUNDS	(15,000)	(519)	(588)	(325)	0
SUB-TOTAL	682,316	916,344	539,299	1,007,790	1,399,228
SEC. 31-J. FERNANDEZ			8,068		
SEC. 30 H	3,630	3,471	0	8,846	5,583
TOTAL COLLECTIONS	42,062,232	42,255,251	40,518,590	42,696,447	47,743,334
BALANCE BRGT FWD	22,394,085	23,172,956	18,724,712	18,952,485	10,405,623
TOTAL	64,456,317	65,428,207	59,243,302	61,648,932	58,148,957
LESS EXPENDITURES	(48,152,196)	(43,034,125)	(36,070,345)	(42,924,220)	(39,196,473)
BALANCE	16,304,121	22,394,082	23,172,957	18,724,712	18,952,484

COLLECTION AND EXPENDITURE REPORT - FISCAL YEAR 2003

EXPENDITURES	FY'03	FY'02	FY'01	FY'00	FY'99
RR SEC. 34	696,301	496,677	732,945	616,463	512,980
RR SEC. 35	243,633	291,047	297,577	391,977	499,521
RR LUMP SUM	749,968	1,462,143	699,231	585,288	605,388
RR SEC. 36	184,359	184,054	39,953	110,339	402,173
RR SEC. 31	69,226	71,502	281,105	79,231	89,077
RR SEC. 34, PERM. TOTAL	311,716	305,627	265,364	261,656	186,699
RR SEC.31-J. FERNANDEZ			8,068		
RR COLA ADJ	175,618	167,841	137,101	158,367	118,130
RR EE MEDICAL	38,453	48,593	44,634	59,453	46,298
RR EE TRAVEL	84	0	0	87	443
RR EE MISC. EXPENSE	550	0	0	0	235
RR EE BOOKS & SUPPLIES	0	0	0	0	0
RR BURIAL BENEFITS	1,969	4,000	0	0	0
RR VETERAN LIENS	0	0	0	0	0
RR LEGAL FEES	296,840	408,008	256,360	276,535	259,326
RR LEGAL EXPENSES		23,815	22,777	23,372	17,636
RR LEGAL MISC. / OTHER		6,384	2,141	2,222	2,000
RR MEDICAL EXPENSES		23,000	109	2,724	0
RR VOC. REHAB SERVICES	6,927	4,442	4,837	14,955	10,168
RR REHAB. SERV. TRAVEL	0	64	98	356	393
RR LABOR MARKET STUDY	7,000	7,000	11,093	12,569	8,400
RR REHAB (PRIOR YEAR)	406	6	2,925	1,323	0
RR MEDICAL	994,132	1,199,572	406,235	592,679	528,946
RR MEDICAL RECORDS		567	1,853	1,262	1,402
RR WELFARE LIENS	0	93,728	88,403	26,357	0
SUB-TOTAL RR	3,777,182	4,798,070	3,302,809	3,217,215	3,289,215
MM TUITION	2,085	1,140	0	0	335
SUB-TOTAL CLAIMANTS	3,779,267	4,799,210	3,302,809	3,217,215	3,289,550
<u>INSURERS</u>					
RR COLAS	17,809,263	15,835,070	15,325,146	11,837,661	13,875,293
RR SEC. 19 COLA LUMP SUM	1,021,639	1,203,306	1,026,126	648,587	583,460
RR SHELBY CLAIMS	0	0	86,033	85,000	0
RR LATENCY SEC. 35	1,377,046	1,173,347	950,567	798,983	504,805
RR LEGAL FEE SEC. 35	266,943	186,357	172,111	142,010	96,598
RR LEGAL EXP. SEC. 35		1,800	860	3,933	3,483
RR SEC. 37	19,863,605	16,719,602	12,782,757	23,959,801	19,043,385
SUB-TOTAL INSURERS	40,338,496	35,119,482	30,343,600	37,475,975	34,107,024
TOTAL LEGAL	44,117,763	39,918,692	33,646,409	40,693,190	37,396,574
<u>OEVR</u>					
JJ IME CORP.	0	0	0	0	0
MM TUITION	16,848	15,448	7,728	7,070	1,780
RR REHAB-30H	4,879	12,989	5,528	1,143	5,089
RR TRAVEL REHAB	151	0	112	65	219
RR EE TRAVEL	1,226	2,620	810	0	3,618
RR EE BOOKS & SUPPLIES	1,788	1,742	354	0	931
SUB-TOTAL OEVR	24,892	32,799	14,532	8,278	11,637
TOTAL PRIVATE TRUST	48,152,196	43,034,125	36,070,345	42,924,220	37,408,211

COLLECTION AND EXPENDITURE REPORT - FISCAL YEAR 2003

EXPENDITURES DEFENSE OF THE FUND	FY'03	FY'02	FY'01	FY'00	FY'99
AA PERSONNEL	1,569,972	1,405,120	1,147,577	1,058,255	1,011,619
AA OVERTIME	2,386	0	0	0	0
SUB-TOTAL	1,572,358	1,405,120	1,147,577	1,058,255	1,011,619
DD FRINGE	338,370	303,759	328,866	253,881	241,439
DD UNIVERSAL HEALTH	304	8,079	0	555	0
DD MEDICARE	10,956	293	0	15,829	0
DD UNEMPLOYMENT	2,060	1,260	2,295	2,116	2,023
DD BOND	0	310	62		
DD WORKERS' COMP CHR.G.	335	19,234	1,321	6,529	
SUB-TOTAL	352,025	332,935	332,544	278,910	243,462
BB TRAVEL	7,384	7,252	9,322	10,261	10,778
BB TRAINING/TUITION	2,200	3,009	6,186	0	1,419
BB EMPLOYEE REIMBURS	55	0	156	91	116
BB PRIDE & PERFORMANCE	201	0	390		
BB PETTY CASH					
BB MANAGER TRAINING		1,000			
SUB-TOTAL	9,840	11,261	16,054	10,352	12,313
CC LAW CLERKS		0	12,128	4,440	
EE RENTAL/MV CHR.G-BACK	2,173	1,703	0	231	262
EE DEST. OLD RECORDS	5,293				
EE ADVERTISING	54	0	0	0	0
EE BOOKS/SUPPLIES	32,881	36,887	28,971	5,069	5,885
EE IMPARTIAL APPEALS	11,650	5,600	5,950	12,650	8,550
EE CENTRAL REPRO.	0	222	0	0	0
EE OMIS CHARGEBACK		6,648	0	2,219	0
EE SEC. 37 INTEREST	0	0	46,344		
EE VERIZON WIRELESS	4,904				
EE BELL ATLANTIC	2,700				
EE NEW ENG. TEL.	2,830				
EE MOBILE PHONES		3,712	1,448	998	899
EE AT&T			5,695	0	40
EE TELEPHONE & FAX	2,224	4,577	0	7,269	11,701
EE POSTAGE	23,375	3,039	13,000	10,000	9,400
EE MCI TELEPHONE			1,242	1,594	1,099
EE QUEST COMM.	0	810			
EE STATE BOOK STORE	264				
EE REFRESHMENTS	0	594			
EE ITT COMPUTER SERV.	10,341	0	0	2,225	
EE WATER	864	1,367			
EE INDIRECT COSTS	89,017	42,493	39,296	51,937	36,900
SUB-TOTAL	188,570	107,652	141,946	94,192	74,736
HH CONSULTANTS	1,449,826	798,586	400,493	475,574	130,008
SUB-TOTAL	1,449,826	798,586	400,493	475,574	130,008
JJ OPERATIONAL SERV.	76,237	87,584	106,575	106,069	100,972
SUB-TOTAL	76,237	87,584	106,575	106,069	100,972

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COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2003

EXPENDITURES DEFENSE OF THE FUND	FY'03	FY'02	FY'01	FY'00	FY'99
GG BOSTON LEASE	322,676	293,687	146,846	146,846	146,846
GG ELECTRICITY	2,859	5,432	3,300	1,675	1,915
SUB-TOTAL	325,535	299,119	150,146	148,521	148,761
KK EQUIPMENT	294	3,036	63,010	7,681	31,288
SUB-TOTAL	294	3,036	63,010	7,681	31,288
LL PRAXIS		0	0	8,116	10,757
LL PAGE NETWORK		0	52	13	26
LL XEROX	3,024	4,524	4,448	0	6,739
LL MOBIL COMM					
LL ORACLE	8,891	0	0	5,063	
LL SIMPLEX	0	0	0	0	0
LL FAIRCHILD	2,153	2,870	2,929	1,311	1,217
LL PITNEY BOWES	101	912	681		
LL IKON	493	778	976		
LL SUN	0	6,853	7,829		
LL RETROFIT	3,514	4,037	5,652		
LL COMMAIR	348				
LL CAM OFFICE SERV	74				
LL PYRAMID	16,164	16,164	16,164	16,564	16,164
LL CONGRESS ALARM	94	140			
LL RICOH	0	63			
SUB-TOTAL	34,856	36,341	38,731	31,067	34,903
RR PENALTIES SEC. 8	0	1,000	200	0	200
SUB-TOTAL	0	1,000			
TT				7,859	
SUB-TOTAL				7,859	
TOTAL DEFENSE OF FUND	4,009,541	3,082,634	2,409,404	2,222,752	1,788,262
TOTAL EXPENDITURES	52,161,737	46,116,759	38,479,749	45,146,972	39,196,473

Workers' Compensation Legislation

***Before the Joint Committee on Commerce & Labor
2003-2004 Legislative Session***

HOUSE BILLS:

HOUSE BILL 297

Filed By: Rep. Thomas P. Kennedy

Type of Bill: Refile

Endorsed by Advisory Council: No

Laws Affected: WC Rates (c.118G, §7), Provider Complaints to HCSB (c.152 §13), Medical Report Fees (§30A) DIA Review - Insurer Claims Procedures (§13) Disciplinary Measures (§13)

Section 1 of this refiled bill (formerly H.2282 and S.101) would amend c.118G mandating that rates for physician and hospital services paid for under Chapter 152, set by the Division of Health Care Finance & Policy, be comparable to rates paid by commercial carriers. In addition, rates would be established that fully cover administrative costs associated with services to patients covered under c.152 when these costs exceed those covered under commercial health insurance policies.

Section 2 of this bill would amend c.152, §13 by requiring that the Health Care Services Board hear complaints by physicians regarding insurers and report the findings to the Division of Insurance.

Section 3 and 4 of this bill would amend c.152, §30A by requiring an insurer to pay the fee for medical reports within 14 days upon receipt. The insurer would also be subject to the same civil fines for failing to pay for reports as physicians are subject to for failing to make reports.

Section 5 of this bill would amend c.152, §13 by requiring the Division of Industrial Accidents to review the claims procedures of workers' compensation insurers including "duplicative and excessive documentation of service requests, standards for utilization review, use of non-physician reviewers, and the prompt payment of claims." The DIA would also be required to review the disposition of all complaints against insurers brought before the Health Care Services Board.

Section 6 of this bill would amend c.152, §13 by allowing the Commissioner of the Division of Industrial Accidents to discipline an insurer if it is determined that the insurer has violated any part of Chapter 152 or rule adopted under this chapter.

HOUSE BILL 305**Filed By:** Rep. Patricia A. Walrath**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Exemption of Non-Profit Entities (c.152, §1)

This refiled bill (formerly H.3674) would amend the word "employer" as not including: "nonprofit entities, as defined by the Internal Revenue Code, that are staffed by volunteers, board members, directors, and paid employees." This would make the requirement of obtaining workers' compensation insurance elective for said employers. Current law only exempts non-profit entities that are exclusively staffed by volunteers.

HOUSE BILL 498**Filed By:** Rep. Martin J. Walsh, AFL-CIO**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Comprehensive Bill (c.152, §1(7A), §13, §14, §30, §34, §35, §36, §46A)

Section 1 of this refiled bill (formerly H.777) would amend Section 1(7A) by allowing administrative judges to consider the employee's pre-injury employment when determining predominant cause of disability.

Section 2 would amend Section 13 setting the medical payment rate at no less than 80% of the usual and customary fee for any such health care service.

Section 3 would clarify Section 14(1) providing penalties against an insurer who refuses to pay medical benefits without reasonable grounds.

Section 4 would amend Section 30 allowing an emergency conference before an administrative judge to determine if an injured worker is entitled to medical treatment.

Sections 5 and 6 would amend Section 30 by limiting utilization review to five of "the most common industrial injury or illnesses." This change would limit the utilization review process to the most frequent care given to injured workers. Failure for an insurance company to comply with utilization review time guidelines would result in said treatments to "be deemed approved."

Section 7 would increase wage benefits for injured workers under §34 by restoring the amount to 2/3 of an employee's average weekly wage.

Section 8 would amend Section 35 by adding additional circumstances under which an administrative judge may extend the number of weeks under §35 (partial disability) benefits. These additional conditions are that the injured worker has returned to employment pursuant to an Individual Written Rehabilitation Plan under Section 30(H), has been found unsuitable for vocational rehabilitation by the OEVR, has returned to work at less than their pre-injury AWW, or has a permanent partial incapacity.

Section 9 would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

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Section 10 would amend Section 46A by requiring an injured workers general health insurance carrier (if they have one) to cover all medical expenses of the injured worker until the workers' compensation insurer is ordered to pay a disputed claim. Currently, there is no language requiring a health insurance provider to cover these costs.

HOUSE BILL 670

Filed By: Rep. Eugene L. O'Flaherty

Type of Bill: Refile

Endorsed by Advisory Council: No

Laws Affected: Attorney's Fees (c.152, §13A(10)), Agreements to Pay Benefits (§19), Temporary Total Disability (§34), Permanent and Total Incapacity (§34A)

Section 1 of this refiled bill (formerly S.66) would allow attorneys to collect fees for advancing an employee's rights under §75A (preferential hiring of injured workers) and §75B (protection against handicap discrimination), in addition to any attorney's fees owed under §13A.

Section 2 of this bill adds two new subsections to §19. It would allow any administrative judge, administrative law judge or conciliator to approve any agreement to pay benefits authorized by §19. It would also allow an agreement to include a pay without prejudice clause.

Section 3 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

Section 4 of this bill would amend §34A and require the insurer to pay the injured employee two-thirds of his AWW before the injury, but not more or less than the maximum or minimum weekly compensation rate if the injury is considered permanent and total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

HOUSE BILL 671

Filed By: Rep. Eugene L. O'Flaherty

Type of Bill: Refile

Endorsed by Advisory Council: No

Laws Affected: Definition of Average Weekly Wage (c.152, §1(1)), Return to Work - Attorney Fees (§13A(4)), Eliminate Consideration of Offers at Conciliation (§13A(4))

Section 1 of this refiled bill (formerly S.77) addresses injured employees who return to work (without a lump sum settlement) and receive wages that are less than the pre-injury wages. This bill would apply the prior average weekly wage to any subsequent period of incapacity, whether or not such incapacity was the result of a new injury, or subsequent injury as set forth in §35B.

Section 2 of this bill would eliminate consideration of the last best offer in awarding attorney's fees when the insurer files for discontinuance of benefits or refuses initial payment. Currently, the claimants attorney is only entitled to payment if the administrative judge accepts the offer of the claimant or the amount submitted by the conciliator.

HOUSE BILL 672**Filed By:** Rep. Eugene L. O'Flaherty**Type of Bill:** Refile (Partial)**Endorsed by Advisory Council:** No**Laws Affected:** Rate of Reimbursement - Health Care Services (c.152, §13), PPA's (§30)

Section 1 of this refiled bill (formerly S.79) deletes the current language in §13 and replaces it with simpler language. This legislation states that the Rate Setting Commission (now called Division of Health Care Finance & Policy) must establish the maximum reimbursement rates for hospitalization and all other health care services, and that no insurer may be held liable for any charge greater than those established rates. This proposed legislation would eliminate the ability for insurers and medical providers to negotiate rates. It would remove the "regardless of setting" provision thereby allowing hospitals to set rates higher than non-hospital facilities. It would remove the requirement that providers sign bills with their license numbers, and the removal of the adherence to federal "safe harbor" regulations. Further, all provisions regarding treatment protocols, utilization review and the establishment of the HCSB would be deleted.

Section 2 creates a new section 30. The bill would eliminate authorization for preferred provider arrangements (PPA's), as well as all language pertaining to utilization review guidelines.

HOUSE BILL 673**Filed By:** Rep. Eugene L. O'Flaherty**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Appointment of Impartial Physicians (c.152, §9C), Impartial Exams (§11A).

Section 1 of this refiled bill (formerly S.78) would create a new section (§9C) to allow an AJ or ALJ to appoint an impartial physician to examine and report on a claimant's condition prior to a conference or hearing. [Currently, under §8(4), an impartial physician can be requested at the conference stage only at the request of the insurer after pay without prejudice period has expired.]

This bill also replaces language for §11A on impartial exams. It would remove the c.398 requirement that an impartial exam be conducted whenever "a dispute over medical issues is the subject of a conference order." Under this bill, appointment of an impartial physician would be at the discretion of the AJ or ALJ. It also requires that the report indicate whether employment is the predominant contributing cause for mental or emotional disability.

This bill would expand the role of the impartial physician by requiring that the physician make a determination about causation, whether or not the determination can be made with a reasonable degree of medical certainty. Moreover, the causation standard would change from whether the work-related injury was the "major or predominant contributing cause" of the disability, to whether the work-related injury was "probably caused or was contributing cause" of the disability. The standard would therefore be eased.

The report from §9C must be entered into evidence at the hearing, and the current requirement that it be treated as prima facie evidence is eliminated. This means that the impartial report must not be the only medical evidence presented to the AJ, but that medical evidence from the employee's treating physician and insurer reports may be entered as well. The deposing party would pay the fee for any deposition. However, if the decision of the AJ is in favor of the employee, the cost of the deposition would be added to the amount awarded to the employee.

HOUSE BILL 1241**Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Scar-Based Disfigurement (c.152, §36(k)), Burial Expenses (§33), Extension of Partial Incapacity Benefits (§35).

Section 1 of this new bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands. Under this bill, compensation could not exceed the average weekly wage in the Commonwealth (at time of injury) multiplied by 29. Currently, the statute states that scar-based disfigurement compensation cannot exceed \$15,000.

Section 2 would require an insurer to pay for burial expenses when a worker has died, not to exceed eight thousand dollars. Currently, the statute requires the insurer to pay reasonable expenses of burial, not to exceed four thousand dollars.

Section 3 would amend Section 35 by adding additional select circumstances under which an administrative judge may extend the number of weeks under §35 (partial disability) benefits. These additional conditions are that the injured worker has returned to employment pursuant to an Individual Written Rehabilitation Plan, has been found unsuitable for vocational rehabilitation, has returned to employment at less than his pre-injury average weekly wage, or has a permanent partial incapacity.

HOUSE BILL 1243**Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Federal Occupational Safety & Health Standards - Protecting State Employees

This new bill would require the Department of Labor & Workforce Development and the Division of Industrial [Occupational] Safety to apply the Federal Occupational Safety and Health Standards (OSHA) as minimum standards to protect workers employed at any state workplace.

HOUSE BILL 1808**Filed By:** Rep. Shirley Owens-Hicks**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Impartial Physician - Appointment (c.152, §11A)

Section 1 of this refiled bill (previously H.3251) would amend §11A by not allowing an impartial physician to be appointed when the report of both the treating physician and the insurer's physician agree with respect to "diagnosis and etiology." (Etiology is the branch of medicine that deals with the causes of disease.)

Section 2 would limit the number of times an impartial medical examiner can be appointed to 5 times in any one month. It would further require that an insurer could not recommend the same examiner for more than a "majority of cases."

Section 3 would make any impartial medical examiner subject to the penalties provided in §14(3) (anti-fraud provisions) if they knowingly produce false or inaccurate reports to benefit the insurer.

HOUSE BILL 2197**Filed By:** Rep. Anthony Petrucci**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Scar-Based Disfigurement (c.152, §36(k)), Burial Expenses (§33), Temporary Total Benefits - Increase (§34).

Section 1 of this new bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands. Under this bill, compensation could not exceed the average weekly wage in the Commonwealth (at time of injury) multiplied by 29. Currently, the statute states that scar-based disfigurement compensation cannot exceed \$15,000.

Section 2 would require an insurer to pay for burial expenses when a worker has died, not to exceed eight thousand dollars. Currently, the statute requires the insurer to pay reasonable expenses of burial, not to exceed four thousand dollars.

Section 3 would increase wage benefits for injured workers under §34 (Temporary Total) by restoring the benefit to 2/3 of average weekly wage (currently 60% of AWW). This bill would also extend the amount of time an injured worker could collect benefits under §34 by deleting the 156-week maximum that compensation is due under this section.

HOUSE BILL 2198**Filed By:** Rep. Michael J. Rodrigues**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Corporate Officers/Directors - Waiver of Rights (c.152, §1(4))

This new bill would clarify the "waiver of rights," as outlined in Form 153, that corporate officers or directors can exercise if they own at least 25% of the corporation's stock. Language in this bill would bar a corporate officer or director "any right created by statute, at common law, or under the law of any other jurisdiction for himself, his spouse, children, parents and any other member of his family or next of kin" against his employer or insurer for any damage or loss that is a result of injury.

Last year House Bill 4348 was signed into law allowing certain corporate officers or directors to exempt themselves from workers' compensation insurance coverage. A corporate officer who owns no less than 25% of issued and outstanding stock of said corporation are allowed to exercise this exemption by completing an affidavit (Form 153) and submitting it to the Department of Industrial Accidents.

HOUSE BILL 2205**Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** Supporting in "Concept"**Laws Affected:** Private Right of Action to Recover WC Coverage Payments (c.152, §25C)

This new bill would allow up to 10 people to bring a civil action against an employer to recover amounts which should have been paid in securing proper workers' compensation insurance as mandated by Chapter 152. Such a person seeking civil action could petition either the Attorney General's Office, the Commissioner of Insurance, or a superior court to hold a "probable cause hearing." At the hearing, it shall be *prima facie* evidence that such probable cause exists if it is shown that:

- an employee was paid any portion of wages in cash with no deductions or taxes withheld;
- no accompanying pay slip showing the wage payment and deductions as required by law;
- an individual was misclassified as an independent contractor when actually an employee;
- wages were not timely paid;
- the employer failed to withhold from the employee's wages all related state taxes; or
- employees have not been properly reported on certified payroll records as required by law.

If the decision shows that probable cause exists, the person who brought the petition shall serve a copy of the decision to any insurer that was entitled to collect amounts not paid and the persons shall simultaneously state any intention to file suit under this section. Any persons who prevail in an action shall be entitled to recover 25% of the amounts unlawfully not paid or \$25,000, whichever is less.

HOUSE BILL 2380**Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** YES (with ABA language)***Laws Affected:** Code of Judicial Conduct - Senior Judge, AJ's, and ALJ's (c.23F, §8)

This refiled bill (previously H.2648) would require the Senior Judge, the Administrative Judges and Administrative Law Judges to be subject to the Code of Judicial Conduct as promulgated by the Supreme Judicial Court. A previous version of this bill was endorsed by the Advisory Council in the Fiscal Year 2002 Annual Report.

***Note:** The Council previously supported House Bill 2648, which was refiled and modified during the 2001-2002 Legislative Session by Representative Antonio Cabral. The changes made to this bill reflect a technical amendment proposed by the Council that utilizes the American Bar Association's (ABA's) Model Code of Judicial Conduct for State Administrative Law Judges. Although the ABA's code only addresses conduct for ALJ's, the Council has recommended that this code also be applied to AJ's.

HOUSE BILL 2381**Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Lump Sum Settlements (c.152, §48) - Approval

This refiled bill (previously H.2650) would require the insurer to notify an employer, with an experience modified policy, of any lump sum agreement, allowing the employer to attend any proceeding in which a lump sum is being presented for approval before their employee. Currently, insurance companies are not required to notify the employer of lump sum activity.

HOUSE BILL 2382**Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** Yes***Laws Affected:** Benefits for Specific Injuries (c.152, §36(k)) - Scar-Based Disfigurement

This refiled bill (previously H.2649) would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

***NOTE:** In July of 2002, the Advisory Council sent a letter to Representative Greene and Senator Pacheco stating that the "Council continues to be receptive to amending Section 36(k) to allow compensation for scar-based disfigurement regardless of its location on the body." However, in reference to Senate Bill 2358, the Council noted that they could not reach a consensus on a SAWW multiplier to determine a maximum benefit "until a thorough cost-analysis can be conducted." House Bill 2382 would not affect the \$15,000 maximum benefit for scar-based disfigurement currently in the statute.

HOUSE BILL 2388**Filed By:** Rep. Peter J. Larkin**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Lump Sum Settlements (c.152, §48) - Limits on Agreements

This refiled bill (previously H.3246) would limit when a lump sum agreement can discharge an employee's right to payment of future benefits. Under this proposed legislation, no lump sum agreement could be entered into or approved unless:

1. the employee has returned to work for at least 6 months, earning at least 75% of his/her pre-injury wage;
2. survivor benefits are claimed under §31;
3. the employee is determined by the AJ to be permanently and totally disabled;
4. or the employee becomes a domiciliary of another state.

HOUSE BILL 2924**Filed By:** Rep. Robert M. Koczera**Type of Bill:** NEW**Endorsed by Advisory Council:** YES**Laws Affected:** Judicial Appointments - Judicial Performance Review (c.23E, §4)

Section 1 of this new bill, endorsed by the Advisory Council, would attempt to stagger judicial terms "naturally" by clarifying that newly appointed Administrative Judges (AJ's) be appointed to new six-year terms, rather than the current practice of being appointed to fill the remaining time-period of a vacant term. In theory, the current law could create a situation in which a newly appointed Judge would only be appointed to serve a 1-year term, if the slot they were filling was vacated after 5-years.

Section 2 of this proposed legislation would require the Senior Judge to review the performance of newly appointed Administrative Judges after their first 2-years of service. If the performance review supports the continuation of their term, the AJ may continue to serve the remainder of their term. However, if the performance review recommends against a continuation of their term, the performance review would be submitted to the Governor for appropriate action.

HOUSE BILL 2930**Filed By:** Rep. Robert P. Spellane**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Serious and Willful Misconduct (c.152, §27) - Intoxication, Unlawful Use of a Controlled Substance

This refiled bill (previously H.2854) would amend §27 by barring workers' compensation benefits to employees who are injured while intoxicated or while using an illegal controlled substance as defined in §1 of Chapter 94C. Currently, §27 bars workers' compensation benefits to employees injured as a result of "serious and willful misconduct."

HOUSE BILL 3293**Filed By:** Rep. Peter J. Larkin**Type of Bill:** Similar**Endorsed by Advisory Council:** No**Laws Affected:** Insurance Rates - Loss Cost - Competition (c.152, §53A)

This bill (similar to H.2115) would create a system of competitive rating for determining workers' compensation insurance rates. Like the current law, insurers would submit all their loss data to the designated rating organization and would adhere to the uniform classification system. The rating organization would develop a "loss cost" for each classification (e.g. roofers, clerical workers).

- "loss costs" are the historical aggregate data and loss adjustment expenses, developed and trended for each classification;
- the "loss cost" is expressed as a dollar amount per \$100 of Payroll;
- Example: The loss cost for a "roofer" might be \$6.00 and for a "clerical worker" \$.90.

Each carrier would develop its own "loss cost multiplier (LCM)." This factor takes into account the carriers expenses other than LAE, such as overhead, acquisition, marketing, profit, etc. LCM's will be multiplied by the loss cost to get the rate per \$100 or payroll.

RATE = LOSS COST x LCM

- Example: If the loss cost for a roofer is \$6 and the carrier's LCM for roofers is 1.4 then the rate will be \$6 x 1.4 or \$8.40 per \$100 of payroll. If the loss cost for a clerical worker was \$.90 and the LCM for clerical workers was .90, the rate will be \$.90 x .90 or \$.81 per \$100 of payroll.

This new system of insurance pricing would apply to all new or renewed workers' compensation policies.

HOUSE BILL 3482**Filed By:** Rep. John H. Rogers**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Workers' Compensation Reinsurance Pool (c.152, §65C)

This new bill would require the Workers' Compensation Rating & Inspection Bureau of Massachusetts (WCRB) or its servicing carriers to assign no less than 20% of the total written premium in the Reinsurance Pool (Residual Market) to third party claims administrators (TPA's) located in Massachusetts. Said TPA's can have no common ownership with any insurer writing workers' compensation within the Commonwealth.

SENATE BILLS:

SENATE BILL 28

Filed By: Senator Robert A. Antonioni

Type of Bill: New Legislation

Endorsed by Advisory Council: No

Laws Affected: Continuation of Temporary Total Benefits (c.152, §34)

This new legislation would extend the benefits for injuries compensable under section 34 (temporary total) assuming there has been no discontinuance or modification order of an administrative judge. Currently, §34 benefits are equal to 60% of the injured worker's average weekly wage and are limited in duration to 156 weeks. Senate 28 would allow an injured worker to receive additional benefits upon the exhaustion of their section 34 benefits. This additional compensation would be equal to 45% of their average weekly wage "pursuant to section 35." The maximum benefits period for §35 injuries is 260 weeks, but may be extended to 520 weeks.

SENATE BILL 29

Filed By: Senator Robert A. Antonioni

Type of Bill: New Legislation

Endorsed by Advisory Council: No

Laws Affected: Workers' Compensation Dependency Benefits (c.152, §35A)

This new legislation would amend §35A, which provides additional compensation to injured workers who have dependents. Currently, §35A provides additional compensation of \$6 per/week to injured workers who have persons dependent upon them for injuries occurring under §34, §34A, and §35. No weekly payments under this section can be greater than \$150 per week when combined with the compensation due under §34, §34A, and §35. Senate 29 would provide injured workers additional compensation of \$15 per/week to injured workers who had persons dependent upon them. This bill would also cap weekly payments at \$300 when combined with the compensation due under §34, §34A, and §35.

SENATE BILL 40

Filed By: Senator Robert S. Creedon, Jr.

Type of Bill: Refile

Endorsed by Advisory Council: No

Laws Affected: Comprehensive Bill (c.152, §1, §10, §7A, §10A, §13A, §14, §34, §35, §35B)

1. Definitions (§1(1)) - Average Weekly Wage

Section 1 of this refiled bill (formerly S.42) would amend the definition of average weekly wage by requiring that the average weekly wage for §35 claimants, who have returned to work and suffered re-injury, must be calculated using the wage the claimant was earning at the time of the original injury.

2. Conciliation (§10(6)) - Last Best Offer

Section 2 would repeal §10(6) which requires that each party submit written offers stating the amount of benefits believed to be owed in cases involving a request for additional compensation, or to modify/discontinue benefits.

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SENATE 40 CONTINUED

3. Presumptions (§7A) – Employee Unable to Testify

Section 3 would amend §7A by stating that when an employee dies, is killed or becomes mentally unable to testify as the result of a workplace injury, a presumption is created that the claim complies with all procedural requirements, and the injury was not the result of a willful intention of the employee to injure or kill himself.

4. Conference (10A(2)) - Last Best Offer

Section 4 would amend §10A(2) by repealing the requirement that the administrative judge, at conference, implement one of the offers rendered at conciliation. It would require that the insurer submit an offer two days before the conference to the claimant. Unless the offer is accepted, the insurer would not be required to pay a referral fee under §13A.

5. Attorney's Fees (§13A) – Last Best Offer

Section 5 would amend §13A dealing with attorney's fees. This bill would remove all reference to the last best offer submissions.

6. Fraudulent Conduct (§14) - Duty to Reveal Knowledge of Fraud

Section 6 would amend §14 dealing with fraudulent actions. This section states that a person who knowingly makes a false or misleading statement or conceals knowledge of any event affecting the payment of benefits will be punished by five years imprisonment, *if they were required by law to reveal the matter*. Presumably, this is to ensure the protection of privileged information (e.g., information protected by the attorney-client privilege).

7. Total Incapacity (§34) – Percent Allowed for Total Injury

Section 7 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW is found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

8. Benefits (§35) - Maximum Amount

Section 8 would amend §35 by eliminating the requirement that partial disability benefits cannot exceed 75% of §34 benefits.

9. Benefits (§35B) - Subsequent Injury

Section 9 would amend §35B to require that an injured employee who returns to work for at least 2 months and suffers another injury, will receive benefits at the rate currently in place, whether or not the new injury is a recurrence of the former injury. Section 3 allows the employee to opt out of this section if it would subject them to a lower rate of compensation.

10. Benefits (§35) - Extension of Benefits

Section 10 would allow the extension of §35 benefits from 260 to 520 weeks if a judge finds, or an insurer agrees, that the injured worker is "incapable of earning at least ninety percent of the average weekly wage before the injury after having been deemed unsuitable for vocational rehabilitation services by the Office of Education and Vocational Rehabilitation under section 30G or, having been deemed suitable for vocational rehabilitation services by said office completed an appropriate rehabilitation program pursuant to section 30G."

SENATE BILL 47**Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Attorney's Fees (c.152, §13A(10)), Agreements to Pay Benefits (§19), Temporary Total Disability (§34), Permanent and Total Incapacity (§34A)

Section 1 of this refiled bill (formerly S.66 and identical to H.670 filed in this session) would allow attorneys to collect fees for advancing an employee's rights under §75A (preferential hiring of injured workers) and §75B (protections against handicap discrimination), in addition to any attorney's fees owed under §13A.

Section 2 of this bill adds two new subsections to §19. It would allow any administrative judge, administrative law judge or conciliator to approve any agreement to pay benefits authorized by §19. It would also allow an agreement to include a pay without prejudice clause.

Section 3 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

Section 4 of this bill would amend §34A and require the insurer to pay the injured employee two-thirds of his AWW before the injury, but not more or less than the maximum or minimum weekly compensation rate if the injury is considered permanent and total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

SENATE BILL 49**Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Benefits for Scar-Based Disfigurement (c.152, §36)

This refile bill (formerly S.74) would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. Compensation would be required for all disfigurement, whether or not scar-based, regardless of its location on the body.

Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

SENATE BILL 51**Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Definition of Average Weekly Wage (c.152, §1(1)), Eliminate Consideration of Last Best Offer in Awarding Attorney's Fees (§13A(4))

Section 1 of this refiled bill (formerly S.77) addresses injured employees who return to work (without a lump sum settlement) and receive wages that are less than the pre-injury wages. This bill would apply the prior average weekly wage to any subsequent period of incapacity, whether or not such incapacity was the result of a new injury, or subsequent injury as set forth in §35B.

Section 2 of this bill would eliminate consideration of the last best offer in awarding attorney's fees when the insurer files for discontinuance of benefits or refuses initial payment. Currently, the claimant's attorney is only entitled to payment if the administrative judge accepts the offer of the claimant or the amount submitted by the conciliator.

SENATE BILL 52**Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Rate of Reimbursement - Health Care Services (c.152, §13), PPA's (§30),

Section 1 of this refiled bill (formerly S.79) deletes the current language in §13 and replaces it with simpler language. It states that the Rate Setting Commission (now called Division of Health Care Finance & Policy) must establish the maximum reimbursement rates for hospitalization and all other health care services, and that no insurer may be held liable for any charge greater than those established rates. This proposed legislation would eliminate the ability for insurers and medical providers to negotiate rates. It would remove the "regardless of setting" provision thereby allowing hospitals to set rates higher than non-hospital facilities. It would remove the requirement that providers sign bills with their license numbers, and the removal of the adherence to federal "safe harbor" regulations. Further, all provisions regarding treatment protocols, utilization review and the establishment of the Health Care Services' Board would be deleted.

Sections 2 and 3 would eliminate authorization for preferred provider arrangements (PPA's) as well as all language pertaining to utilization review guidelines. Section 35 (partial incapacity benefits) would also be amended by eliminating the maximum rate of benefits (75% of §34 benefits). It would eliminate the duration of §35 benefits as well.

SENATE BILL 60**Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Definition of Employee (c.152, §1(4)), Elective Coverage - Corporate Officers

This refiled bill (formerly S.56) would make coverage elective for corporate officers and employees who are immediate family members, who are also sole executive officers. A mistake was made in the drafting of this legislation as several sentences were left out.

SENATE BILL 61**Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employer Fines Reduction (c.152, §25C), Preferential Hiring (§75A), Employee Definition - Elective Coverage of Corporate Officers (§1(4))

Section 1 of this refiled bill (formerly S.57) would amend §25C(2) regarding fines for failing to secure workers' compensation insurance. It would add provisions allowing the DIA Commissioner to reduce employer fines to an amount no lower than \$250 following a hearing in which there is a finding that:

- (a) the fine would have a severe negative impact on the cash flow or financial stability of the business;
- (b) weekends and holidays interrupted the employer's ability to secure coverage in a more timely fashion;
- (c) the business was unable to secure voluntary coverage, thus delaying their application to the Massachusetts Workers' Compensation Assigned Risk Pool for coverage; or
- (d) the amount of annual premium for worker's compensation coverage is less than the amount of fines imposed by the DIA under the stop work order.

Section 2 of the bill, would amend §75A, which requires employers to give preference in hiring to injured employees applying for re-employment. This bill would relieve the rehiring requirement if the injured employee has been employed by another employer for more than six months since the date of injury.

Section 3 of the bill would amend §1(4). It would make the coverage of corporate officers elective.

SENATE BILL 72**Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employee Leasing Companies - Exclusive Remedy (c.152, §15)

This refiled bill (formerly H.1138 in the 1999-2000 session and identical to S.88 filed in this session) would amend §15 by barring an action at law for damages for personal injuries or wrongful death by an employee towards an employee leasing company and its client company, if each are in compliance with the requirements of Chapter 152. Currently, §15 only provides protection to "the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees."

SENATE BILL 76**Filed By:** Senator Thomas M. McGee**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Comprehensive Bill (c.152, §1, §6, §7, §8, §13A, §28, §29, §30, §31, §33, §34, §34A, §34B, §35, §35D, §35E, §36, §50)

This refiled bill (formerly H.2284) seeks to amend many aspects of Chapter 152.

Section 1 of this bill would amend the definition of "Average Weekly Wage" by specifying that if an injured employee is employed by more than one *employer*, the total earnings from the several *employers* should be considered in determining average weekly wage. Currently the law is more specific in stating that if the injured employee is employed by more than *one insured employer or self-insurer* rather than "employer" as proposed by this legislation. Section 1 of this bill also states that weeks in which an employee received less than *four hours* in wages is considered lost time for determining average weekly wage. Currently, the law considers lost time as weeks when an employee receives *less than five dollars in wages*.

Section 2 of this bill would amend §1(7A) regarding the definition of "Personal Injury" in dealing with mental or emotional disabilities. Currently, "Personal Injuries" include mental or emotional disabilities only where the *predominant contributing cause* of such disability is an event or series of events occurring within any employment. This bill would replace "the predominant contributing cause" with "a significant contributing cause."

Section 3 of this bill would substantially increase the fines for employers who violate the provisions of §6 with regard to the reporting of the notice of injury to the DIA, the employee, or insurer. Currently, if an employer violates this provision three or more times they are required to pay a fine of \$100 for each violation. This bill would eliminate the necessity that a violation occurs three or more times before a penalty is issued. Fines would be issued as follows: \$100 for first violation; Subsequent violations within a year are increased \$100 for each subsequent violation; If an employer fails to make notice to the DIA, employee, and insurer, it must pay additional penalty to the DIA of \$1,000 into the Special Fund and \$1,000 to the employee; If an employer fails to make notice to the DIA, employee, and insurer within 90 days, an additional penalty of \$10,000 will be assessed.

Section 4 would amend §7(2) by increasing the penalty placed on insurers who fail to begin payment of weekly benefits or notify parties of refusal to pay benefits within 14 days of receipt of the employer's First Report of Injury. This bill would require the insurer to pay the employee an amount of \$200 or their compensation rate (whichever is higher). If the insurer still fails to begin payments or make such notification within 60 days, they must pay a penalty of \$1,000 to both the Special Fund and to the employee.

Section 5 and 6 of this bill would amend §8 by decreasing the "pay without prejudice" period to 90 days. Currently, when an insurer pays a claim, it may do so without accepting liability for a period of 180 days. This pay without prejudice period establishes a window where the insurer may refuse a claim and stop payments at its will. Up to 180 days, the insurer can unilaterally terminate or modify any claim as long as it specifies the grounds and factual basis for so doing. The purpose of the pay without prejudice period is to encourage the insurer to begin payments to the employee instead of outright denying the claim.

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SENATE 76 CONTINUED

Section 7 of this bill would allow the pay without prejudice period to be extended upon agreement by the parties in 90-day increments not to exceed one year. Currently, pay without prejudice extensions are not required to be set at 90-day increments.

Section 8 of this bill would amend §13A(5). This section assesses an insurer a penalty of \$3,500 (plus necessary expenses) whenever an insurer files a complaint or contests a claim for benefits and then later accepts the claim or withdraws the complaint within 5 days. This section of the proposed legislation would increase the number to 10 days.

Section 9 of this bill would amend §28, paragraph 1, which address injuries caused by serious and willful misconduct of the employer. This section of the proposed legislation would further define "willful misconduct" as a "knowing and willful violation of the Federal and/or State O.S.H.A. standards." Currently, if an employee is injured by serious and willful misconduct by the employer, they will receive double compensation for their injuries.

Section 10 of this bill would amend §29 dealing with the required period of incapacitation. Current law states that no compensation pursuant to §34 and §35 shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of 5 or more calendar days. If incapacity extends for a period of 21 days or more, compensation is paid from the date of the onset of the incapacity. This bill decreases this 21-day period to *5 days or more*.

Section 11 of this bill would amend §30, which requires the insurer to furnish medical and hospital services, and medicines if needed. Except for the first appointment, the injured worker may select a treating physician and may switch to another such professional *once*. This bill would allow the injured worker the option of switching physicians *twice*.

Section 12 would amend §31 covering death benefits for dependents. Current law provides the widow or widower, that remains unmarried, 2/3 of the average weekly wage (AWW), but not more than the state's AWW or less than \$110 per week. They shall also receive \$6 per week for each child (this is not to exceed \$150 in additional compensation) of the deceased employee. This bill would increase the minimum amount a widower is entitled, to \$200 per week and \$12 more a week for each child of the deceased employee.

Section 13 would amend §33 regarding burial expenses for deceased employees. Currently, the insurer is required to pay reasonable expenses for burial, not exceeding \$4,000. This bill would increase the amount the insurer is required to pay for burial expenses not to exceed \$6,000.

Section 14 would increase the weekly compensation for total incapacity (§34) benefits. Compensation would increase from the current 60% to 2/3 of average weekly wage. Duration would increase from the current 156 weeks to 208 weeks.

Section 15 would amend §34A pertaining to permanent and total incapacity. When the incapacity for work resulting from the injury is both permanent and total, an insurer is required to pay an injured employee a weekly compensation equal to 2/3 of their average weekly wage before injury, but not more than the maximum weekly compensation rate nor less than the minimum compensation rate. Current law requires that this payment be made "following payment of compensation in §34 and §35." This section of H.2854 would delete this requirement.

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SENATE 76 CONTINUED

Sections 16 and 17 would amend §34B pertaining to supplemental benefits for §31 or §34A. This bill would expand supplemental benefits to include both §34 and §35.

Section 18 would amend §35 pertaining to partial incapacity benefits, by raising the wage benefits for injured workers to $\frac{2}{3}$ AWW of the difference between their AWW before the injury and the weekly wage they are capable of earning after the injury, *but not more than the maximum weekly compensation rate*. Currently for §35, compensation is 60% of the difference between the employee's AWW before the injury and the weekly wage earning capacity after the injury. This amount cannot exceed 75% of temporary benefits under §34 if they were to receive those benefits.

Section 19 would amend the duration allowed for §35 benefits. Currently, the maximum benefit period for partial disability is 260 weeks, but may be extended to 520 weeks. This bill would increase the maximum benefit period to 442 weeks and could be extended at "the discretion of an administrative judge."

Section 20 would amend §35A, which provides additional compensation to injured workers who have dependents. Currently, §35A provides additional compensation of \$6 per/week to injured workers who have persons dependent upon them for injuries occurring under §34, §34A, and §35. No weekly payments under this section can be greater than \$150 per week when combined with the compensation due under §34, §34A, and §35. This section of Senate 76 would provide injured workers additional compensation of \$12 per/week to injured workers who had persons dependent upon them. This bill would also cap weekly payments at \$250 when combined with the compensation due under §34, §34A, and §35.

Section 21 of this bill would amend §35D(5) and require that implementation of this section be subject to §8. Employment would be defined as a job that the employee is physically and mentally capable of performing, as long as it relates to the employee's work experience, education, or training either before or after the injury.

Section 22 of this bill would amend §35E. It would require that any person receiving old age benefits pursuant to federal social security law or receiving pension benefits paid by an employer should not be entitled to benefits under §35. This is unless the employee can establish that they would have remained active in the labor market.

Section 23 of this bill would amend §36(k). It would require that for bodily disfigurement, compensation will not exceed \$20,000 and will be payable in addition to other sums outlined in this legislation.

Section 24 of this bill would amend §50. Payments required by order that are not made within 60 days of being claimed by employee, dependent or other party would accrue interest at a rate of 12% per year. If sums include weekly payments, then interest will accrue on each unpaid weekly payment.

SENATE BILL 88**Filed By:** Senator Michael W. Morrissey**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employee Leasing Companies - Exclusive Remedy (c.152, §15)

This refiled bill (formerly H.1138 in the 1999-2000 session and identical to S.72 filed in this session) would amend §15 by barring an action at law for damages for personal injuries or wrongful death by an employee towards an employee leasing company and its client company, if each are in compliance with the requirements of Chapter 152. Currently, §15 only provides protection to "the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees."

SENATE BILL 101**Filed By:** Senator Marc R. Pacheco**Type of Bill:** Refile**Endorsed by Advisory Council:** No - Senate Bill 2358 was discussed in detail at the 6/12/02 AC meeting but members were unable to reach a consensus. A letter was sent to Commerce & Labor stating concern with the adequacy of the current rates.**Laws Affected:** Reimbursement Rates for Physician and Hospital Services (c.118G, §7), Scar-Based Disfigurement (c.152, §36)

Section 1 of this refiled bill (formerly S.2358) would amend c.118G, §7 by adding a new paragraph requiring the Division of Health Care Finance & Policy (DHCFP) to set rates for physician and hospital services paid for under c.152 at a "usual and customary fee" for any such health care service. Current language requires the Division to set these rates, which are determined by a regulatory process that promulgates in fee schedules (114.3 CMR 40.00) and other formats that ensure a public process. Rates are currently negotiable among the insurer, employer, and the health care service provider (c.152, §13).

Section 2 of this bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. Senate Bill 101 would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. The proposed legislation further states that payments for these type of injuries could not exceed the average weekly wage in the Commonwealth (at date of injury) multiplied by 29 [\$882.57 (SAWW) x 29 = \$25,594.53 (maximum benefit)]. Current language in the statute limits payments for scar-based disfigurement from exceeding \$15,000.

SENATE BILL 107**Filed By:** Senator Charles E. Shannon, Jr.**Type of Bill:** New Legislation**Endorsed by Advisory Council:** No**Laws Affected:** Employee Financial Assistance Fund (c.10, §67), Return to Work Disagreement - Independent Physician (§45)

Section 1 of this new legislation would create an "Employee Financial Assistant Fund" that would be credited pursuant to §45. Monies expended from this fund would only be for purposes of §45. Under section 45, benefits of an employee may be suspended unilaterally for the refusal to submit to an examination by a physician of the employer or insurer's choice.

Section 2 of this bill would add a new paragraph to §45 allowing an employer to require (at their own expense) an examination of an employee, by a physician selected by the employer, if the employee's physician has previously reported in writing that employee is able to return to work. If the employer's physician disagrees with the employee's physician, the employee and the employer must agree to abide by the results of a third examination by an independent physician. Section 2 would also require each employer in the Commonwealth to annually pay 1% of their annual gross payroll into the "Employee Financial Assistant Fund" created above in Chapter 10. Each employee in the Commonwealth may pay into this fund no more than 1% of their annual gross wage. An employee who contributes to this fund is eligible to receive financial assistance from the fund in accordance with regulations promulgated by the Commissioner.

SENATE BILL 123**Filed By:** Senator Steven A. Tolman**Type of Bill:** New Legislation**Endorsed by Advisory Council:** No**Laws Affected:** Benefits for State Social Workers Resulting From Acts of Violence (c.30, §58)

This new legislation would compensate state employees who receive bodily injuries resulting from acts of violence by children in their custody or parents of said children. If eligible for workers' compensation benefits, these injured state employees would receive the difference between the weekly cash benefits entitled under Chapter 152 and their regular salary. The affected employee's absence would not be charged against their available sick leave credits. Current law allows this benefit to state employees who receive bodily injuries resulting from acts of violence from patients or prisoners only.