

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

April 9, 2003, 2003
Department of Industrial Accidents
600 Washington Street, 7th Floor
Boston, MA 02111

Present: Chairman Thomas M. Jones. CM: Antonio Frias (Inez Leonardo); Robert Banks; Frank Fanning; Alan S. Pierce; Edmund C. Corcoran, Jr.; Carol Falcone; Joan Lenihan (Department of Labor and Workforce Development).

Also Present: DIA: Deputy Commissioner John Chapman; Senior Judge Dan O'Shea; Richard Morris, Acting Director of Administration; Karen Fabiszewski; Karen Gibbons (WCRIBM); Stacey Schmidt; Ken Owens (Commerce and Labor Committee); Kevin Mulvey (State Auditor's Office).

Advisory Council Staff: Andrew Burton; Ann Helgran.

Absent: Vice-Chairman William H. Carnes; CM: Jeanne-Marie Boylan; Bruce Cochrane; Stephen Sampson; John Perry; Department of Economic Development.

Agenda:

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

Miscellaneous

Chairman Jones opened today's meeting and recognized Council Member Edmund C. Corcoran and Chairman William H. Carnes (absent) for their service as Chair and Vice- Chair of the Council. He thanked Mr. Corcoran on behalf of the Council Members for his devoted service to the Advisory Council. The Chairman presented Mr. Corcoran with a Certificate of Special Congressional Recognition from Congressman Stephen F. Lynch. Council Member Corcoran thanked members of the Council and Congressman Lynch.

DIA UPDATE

Judicial Update

The Senior Judge updated Council Members on current judicial statistics. Conference Queue: 703; Hearing Queue: 2,240; Reviewing Board Inventory: 128; Impartial Exams: 3,226 (84 waivers).

Discussion followed regarding the "Decisions Outstanding Over 6 Months" memorandum that had been included in Council Members' packets. It was noted that one judge may have to be taken off-line.

The Senior Judge informed Council Members that a nominating panel would be established to interview prospective judges after the deadline for judicial applications closes on April 18th. Council Members approved the suggestion that an Advisory Council meeting be setup solely for the purpose of interviewing prospective judicial candidates in May.

Stop Work Orders

Mr. Morris updated Council Members on the status of stop work orders. Total Investigations for March: 705; Total SWO's Issued: 272; Total Fines Collected: \$36,853; Total Fines Billed: \$20,500.

Discussion followed regarding the number of stop work orders issued. Council Member's expressed the need to be provided with more information regarding repeat offenders and the number of claims being filed against the Trust Fund. Chairman Jones requested that the Council be provided with a report on the number of opt-outs being issued. Mr. Morris stated that he would give the Council an update of current Trust Fund statistics at the next Council Meeting.

Deputy Commissioner John Chapman stated that the DIA would host a summit with representatives from various New England states to address the problem of employers who fail to secure workers' compensation insurance as mandated.

Council Members suggested that a subcommittee be established to further review stop work order issues. Several Council Members agreed to serve on this committee. Assessment Audit

Karen Fabiszewski provided Council Members with a brief update on the status of the assessment audit. Ms. Fabiszewski stated that a meeting had been arranged with Liberty Mutual regarding the results of the final report. She noted that a resolution has not been reached with Arbella Insurance Company, which has agreed to disagree with the DIA. Houston General has had a notice mailed to them regarding the results of the final report.

Ms. Fabiszewski has spoken to an attorney from One Beacon Group and additional time was requested for Houston General to respond. Wausau Insurance has had notices mailed to them and the DIA is waiting for a formal response. All of the other companies have also been sent notices for unpaid assessments. Ms. Fabiszewski stated that she would again resume the regular report on assessment reviews in June. Ms. Fabiszewski stressed that particular companies were not targeted for audit as they were chosen at random to be reviewed.

CRS Update

Mr. Morris stated that the DIA was providing assistance to those insurers who had called the DIA with questions regarding the Compensation Review System (CRS). The Acting Director of Administration informed Council Members that the total insurer pool was at 658 companies (two of which had asked for a deferral and 30 without claims to report nor currently writing policies). Mr. Morris noted that from this pool, 14 have already submitted their data. Mr. Morris stated that all insurers have until April 30th to submit the data that was requested.

Chairman Jones thanked members of the DIA for their updates.

ACTUARIAL REVIEW OF RATE FILING

The Chairman informed Council Members that the Division of Insurance held a hearing last week to hear public testimony regarding the Workers' Compensation Rating & Inspection Bureau of Massachusetts' (WCRIBM) request to increase average rates by 10.8%. The Chairman noted that he had testified on behalf of Associated Industries of Massachusetts (AIM) and that Andrew Burton had testified on behalf of the Advisory Council. Chairman Jones stated that several others testified including, Secretary Barbara Berke (Department of Economic Development), Assistant Attorney General Peter Leight (Attorney General's Office), and a representative from the State Rating Bureau. Chairman Jones stated that the Division of Insurance would be awaiting the Council's report.

The Chairman introduced Ann Conway and Manolis Bardis from Tillinghast Towers- Perrin. Ms. Conway and Mr. Bardis came before the Council to discuss their analysis of the WCRIBM's rate filing. Ms. Conway distributed an outline of their findings (attached to minutes).

Ms. Conway and Mr. Bardis reviewed 7 bullet points they had outlined for Council Members: background, reconciliation with prior filing, profit provision, trend/law amendments, loss/premium development, expenses, and classification rates/experience rating.

Chairman Jones suggested that Ms. Conway and Mr. Bardis provide the Council with a draft report of their findings by next week. The Executive Director stated that he would mail a copy of the draft report to all Advisory Council members so it could be discussed at the May meeting.

ACTION ITEMS

Chairman Jones asked for a motion to accept the March 2003 Minutes.

Motion made to accept the March 2003 Minutes.

MMS - passed.

Council Members reviewed the Budget Subcommittee's recommendations (attached to minutes).

Motion made to accept the subcommittees recommendations and to send a letter of endorsement of the DIA's line-item in House 1 to the Governor and other parties.

MMS - passed.

Chairman Jones asked members from the DIA to continue with the Personnel update.

Personnel Issues

Deputy Commissioner John Chapman stated that the DIA was in the process of recruiting for the positions of General Counsel and Director of Administration. The Deputy Commissioner noted that a Personnel Director has been hired and is working for the agency.

Budget

Mr. Morris indicated that the lease at the Worcester Regional Office had been extended. The Acting Director of Administration stated that they were currently in the process of negotiating the terms of a new lease.

OEVR SUBCOMMITTEE UPDATE

Council Member Carol Falcone updated Council Members. She stated that the Division of Labor and Workforce Development (DLWD) has delegated the manager of the Career Centers, Lisa Matrondola, to work in conjunction with the sub-committee to enhance the productivity of the Office of Education and

Vocational Rehabilitation (OEVR). The subcommittee will be working with DLWD and OEVR to integrate services available through the Career Centers. Council Member Falcone informed Council Members that the next subcommittee meeting would be held on May 28th.

EXECUTIVE DIRECTOR UPDATE

Executive Director Andrew Burton reported to Council Members that he and Chairman Jones had met with Director Jane Edmonds (Department of Labor and Workforce Development). The Executive Director stated that he had reviewed with Director Edmonds the Council's Concerns & Recommendations, membership appointments, and Advisory Council staffing needs. Mr. Burton noted that he is now in the process of arranging a similar meeting with Director Barbara Berke (Department of Economic Development).

The Executive Director stated that he had previously mailed to Council Members an article in the Standard that echoed the Council's Concerns & Recommendations section in the Fiscal Year 2002 Annual Report.

Mr. Burton stated that he would soon be sending out an update to the Legislation packets that he had previously mailed Council Members. The Executive Director anticipated that the June Agenda would include a legislative discussion of workers' compensation bills.

Chairman Jones thanked all those who had participated in today's meeting and asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed.

Meeting adjourned 11:30 a.m.

The next regular meeting of the Advisory Council: May 14, 2003 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, at 600 Washington Street, Boston, MA 02111.