

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

June 11, 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; Edmund C. Corcoran, Jr.; Alan S. Pierce; Carol Falcone; Richard Weitzel (Department of Economic Development).

Also Present: DIA: Senior Judge Dan O'Shea; Richard Morris, Acting Director of Administration; Bill Taupier, Deputy Director of Administration and EDP; Gregory White, Legal Counsel; Karen Gibbons (WCRIBM).

Advisory Council Staff: Andrew Burton; Ann Helgran, Evelyn Flanagan.

Absent: CM: Jeanne-Marie Boylan; Bruce Cochrane; Stephen Sampson; John Perry; Department of Labor and Workforce Development.

Agenda:

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

Chairman Jones conducted today's meeting.

EXECUTIVE SESSION - JUDICIAL APPOINTMENTS

Chairman Jones asked for a motion to adjourn to Executive Session for Judicial Appointment Interviews.

Motion made to adjourn to Executive Session.

MMS - passed.

Council Meeting adjourned to Executive Session to interview prospective candidates for the position of Administrative Judge in order to fulfill the Advisory Council's statutory role in rating judicial nominees pursuant to its authority under M.G.L., c.23E, §9.

Council Members conducted an interview of Attorney John T. Walsh. Upon completion of the interview, a request was made to all present Council Members by Chairman Jones to rate Attorney Walsh as either *qualified* or *not qualified*. The Chairman also noted that the Council has the option of rating Mr. Walsh *highly qualified* if he receives sufficient votes for a rating of *qualified*.

John T. Walsh

Motion made that he be rated "Qualified."

MMS - passed.

Motion made that he be rated "**Highly Qualified.**"

MMS - passed.

Irene B. Schall

Chairman Jones referred to a letter received from Attorney Jamey Tesler requesting that the Advisory Council reconsider the qualifications of Irene B. Schall and submit a rating of either highly qualified, qualified or not qualified. Chairman Jones noted that at the previous Advisory Council meeting, Council Members were unable to reach a consensus on the qualifications of Attorney Schall.

Council Members discussed Attorney Schall's qualifications at great length.

Motion made that she be rated "Qualified."

MMS - did not pass.

Motion made that she be rated "**Not Qualified.**"

MMS - did not pass.

Council Members suggested a letter be sent to the Governor's Chief Legal Counsel explaining the Council's inability to reach a consensus on this matter.

Chairman Jones directed that a letter be sent to Attorney Dan Winslow informing him that, according to M.G.L. c.23E, §9, the Advisory Council can take no formal action without the affirmative vote of at least seven voting members. Due to the inability of the Council to obtain these votes, the Council's position would have to be "*no consensus.*"

Motion made to adjourn from Executive Session.

MMS - passed.

[A five-minute recess took place to allow non-members and DIA administration to join the meeting.]

DIA UPDATE

Representing the Department of Industrial Accidents at today's meeting was Mr. Richard Morris. Mr. Morris informed the Council Members that the DIA would be presenting their monthly vital statistics update in the form of a PowerPoint slide presentation. He then proceeded to distribute a hardcopy of the presentation to those present (attached to minutes). Mr. Bill Taupier assisted in today's presentation. Council Members were informed that future statistics would be available to them through the DIA's website. Mr. Morris also noted that this report could also be e-mailed to Council Members prior to the Advisory Council meetings.

Judicial Update

Senior Judge O'Shea updated Council Members following a similar format illustrated in the DIA's handout. Conference Queue: 482; Hearing Queue: 2,348; Reviewing Board Inventory: 141; Impartial Exams: 4,418 (120 waivers).

Personnel Issues

Chairman Jones introduced the newly appointed Chief Legal Counsel for the Department, Gregory White. Attorney White gave a brief synopsis of his legal background and work history. He stated that there would

be many positive changes occurring within the Department, including the method of how stop work orders are issued and fines collected.

Attorney White stated that he would continue to update the Advisory Council and was looking forward to working with them.

Stop Work Orders

Council Members were updated on the status of Stop Work Orders by Mr. Morris. He then referred to Mr. Bill Taupier who conducted a slide presentation. A hardcopy of the presentation was distributed to those present (attached to minutes). Total Investigations for May: 590; Total SWO's Issued: 230; Total Fines Collected: \$38,561; Total Fines Billed: \$19,600. Mr. Taupier concluded his presentation with the number of cases filed with the DIA.

Mr. Morris informed Council Members that the graphs (attached) submitted today would be the method in which the Department would conduct their statistical updates at future meetings. Mr. Morris requested that Council Members provide input in this matter.

Council Members voiced their approval of the new method and asked that an additional graph be designed to show the impact of the uninsured on the Trust Fund.

Chairman Jones thanked the members of the DIA for their updates.

ACTION ITEMS

Chairman Jones asked for a motion to accept the minutes for the Advisory Council meeting on May 14, 2003.

Motion made to accept the minutes for May 14, 2003.

MMS - passed.

Chairman Jones asked for a motion to accept the minutes for the Advisory Council meeting on May 22, 2003.

Motion made to accept the minutes for May 22, 2003.

MMS - passed.

WORKERS' COMPENSATION LEGISLATION DISCUSSION

Chairman Jones referred to the legislation review that had been included in Council Members' packets.

The Executive Director, Andrew Burton, reviewed specific pieces of legislation with members of the Council. Mr. Burton summarized the following highlighted bills:

House Bill 2380 - Code of Judicial Conduct - *filed by Rep. Cabral*

House Bill 2382 - Scar-Based Disfigurement - *filed by Rep. Cabral*

House Bill 2924 - Judicial Appointments - *filed by Rep. Koczera*

Discussion followed.

Chairman Jones suggested that the Advisory Council's endorsement of specific pieces of legislation be the focus of July's agenda.

EXECUTIVE DIRECTOR UPDATE

The Executive Director updated Council Members on current issues. He stated that he had delivered the Tillinghast Study of the Rate Filing to the Insurance Commissioner, Julianne Bowler. He had included the cover letter that was attached to this study in Council Members' packets. Mr. Burton read aloud the second paragraph of the letter that had been addressed to Ms. Julianne M. Bowler, Commissioner of Insurance. The letter echoed the concerns of the Advisory Council noting that "too large a rate decrease could lead to potential growth in the residual market, whereas, too large a rate increase could have an adverse economic impact on employers in the Commonwealth."

Mr. Burton referred to the letters that had been mailed to the members of the Conference Committee regarding the Fiscal Year 2004 Budget. He noted that the letter reinforced the Council's endorsement of the Governor's Budget Recommendation of \$18,772,922. The Executive Director explained that the letter supported specific language within the lineitem that would allow the Council to release sufficient funds from the Special Reserve Account to pay for enhanced security and internal control measures. Mr. Burton further stated that the letter recommended that not less than \$800,000 be expended for occupational safety training grants.

Mr. Burton continued his update and referred to the articles that were also included in Council Member's packets. One of the articles had been written by Council Member Alan Pierce and explained why injured workers turn to Attorneys to navigate the Workers' Compensation System.

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 11:20 a.m.

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