

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL MINUTES**

July 11, 2001
Department of Industrial Accidents
600 Washington Street, 7th Floor
Boston, MA 02111

Chairman: William H. Carnes

Vice Chairman: Edmund C. Corcoran, Jr.

Present: Chairman: William H. Carnes; Vice Chairman: Edmund C. Corcoran, Jr. *CM:* Antonio Frias (Inez Leonardo); Richard Lord (Tom Jones); Jeanne-Marie Boylan; Robert Banks; John Perry; Alan S. Pierce; Carol Falcone; Department of Labor & Workforce Development (Joan Lenihan).

Also Present: DIA: Deputy Commissioner Priscilla J. Conant; Jim Hayes; Karen Fabiszewski; Senior Judge O'Shea; George Sutcliffe; Ken Owens; Jonathan Ablet (Joint Committee on Commerce & Labor); Victoria Carter; Karen Wager (WCRIB); Nancy Foley (Alliance for Injured Workers).

Advisory Council Staff: Denise A. Lucciola; Andrew Burton; Ann Helgran.

Absent: CM: Joseph Tamulis; Bruce Cochrane; Frank Fanning; Stephen Sampson; Department of Economic Development (Tom McCullough).

Agenda:

DIA Update

Ann Conway - Tillinghast - Towers Perrin

Action Items

- Minutes - June, 2001

Executive Director Update

Miscellaneous

DIA Update

Senior Judge O'Shea updated Council Members on current judicial statistics. Conference Queue: 2,000; Hearing Queue: 2,098; Reviewing Board Inventory: 190; Impartial Exams: 4,688 (65 waivers). He noted that the two, one-year recall judges had been re-appointed. Senior Judge O'Shea explained that he was working with the Governor's Chief Legal Counsel and requested that the open judicial slots be filled as soon as possible.

When asked about the status of the impartial physician roster, he replied that the total number of impartial doctors is down from 351. As of July 1st there have been only 147 renewals of impartial physician contracts and nine specialties have no doctors assigned to impartial examinations. The Senior Judge believes that the low fee is causing the lack of interest of physicians and suggested that their fee be increased. He proposed that the current level of \$350 be increased to \$450.

Discussion followed on how to implement a change in the fee structure because the delays within the dispute resolution system would be more costly than an increase in the fee structure. It was decided that the members of the Council would send a letter to the Executive Office of Administration & Finance in support of the Senior Judges' suggestion of increasing the fee for impartial physicians.

A motion was made to send a letter of support of the proposed increase to the impartial examination fee to the Office of Administration & Finance.

MMS - passed.

Chairman Carnes thanked the Senior Judge for his update. Chairman Carnes at this welcomed and introduced several guests that were attending today's meeting. Jonathan Ablet, new research analyst for the Joint Committee on Commerce & Labor and Nancy Foley from the Alliance for Injured Workers.

Stop Work Orders

Mr. Hayes reviewed the statistics on stop work orders. Total Investigations for June: 586; Total SWO's Issued: 192; Total Fines Collected: \$30,066.00; Total Fines Billed: \$15,700.00. Stop work orders were down because of the lack of investigators this month.

Budget

Mr. Hayes stated that the DIA was still waiting for the budget to come out of Committee. In answer to Council Members questions, Mr. Hayes informed them that both the Senate and House Budget allowed for \$800,000 in Safety Grants and a specific company was allotted \$150,000 to provide online dispute resolution services. The total appropriated for the DIA fiscal year 2002 budget: \$18,792,473.

Personnel Issues

Mr. Hayes then referred to the enclosed update on the personnel status in Council Members' packets, which showed that the total staffing as of June 30, 2001 was 298.5. There had been an EDP Systems Analyst II promoted from Finance & Accounting and a resignation of an Administrative Secretary and a Counsel II. Mr. Hayes acknowledged that the Chief Legal Counsel for the DIA was on administrative leave and that he and another attorney in the Department were performing the Chief Legal Counsel's tasks.

Chairman Carnes thanked Mr. Hayes

Assessment Audit

Ms. Karen Fabiszewski, Legal Counsel, updated Council Members as to the status of the Assessment Audit. She noted that she did not have a handout this month but would have one for the next Council meeting. Ms. Fabiszewski gave the members a preliminary overview of the present assessment status.

Ms. Fabiszewski further stated that the other topic she would like to mention was the authority to collect these assessments. In her research, the Department has the authority (M.G.L.c.152 §65(12)) to monitor the assessment process. Ms. Fabiszewski stated that the Department would continue to use its authority under the statute and will seek the assistance of the Attorney General if necessary.

Chairman Carnes thanked Ms. Fabiszewski for her update.

Assessment Rates Ann Conway - Tillinghast - Towers Perrin

The Executive Director discussed a memo that she and Andrew Burton had written in Council Members' packet that explains the fiscal year 2002 assessment rates (attached to minutes).

Ms. Conway of Tillinghast Towers Perrin came before the Council to summarize the projected assessment rates for fiscal year 2002, and distributed a handout of how the assessment rates were computed. The summary detailed the estimated amount required by the special fund and trust funds for fiscal year 2002.

Ms. Conway answered various questions from Council Members and referred to the charts in her handout. She pointed out that the significant difference in the assessment ratios related to the Private Fund. She also noted that although the assessment rate for the most recent fiscal years had increased, the total estimated costs for fiscal 2002 have decreased by nearly 40% from the average level. Ms. Conway continued to outline the cost drivers: the decrease in overage adjustment, disbursements under

Section 37, and the increase in defense of the Fund and Special Fund Budget. She noted that the projected expenditures for fiscal year 2000 were \$63.9 million.

Discussion followed.

Chairman Carnes thanked Ms. Conway for her presentation.

Lawrence Advisory Council Meeting

Chairman Carnes inquired if Council Members would like to meet at the DIA's Lawrence Regional Office for the September 12, 2001 Advisory Council meeting.

Council Members agreed to have their September Advisory Council Meeting at the Lawrence Regional Office. The meeting will be beginning at 10:00 a.m. and will be followed by a luncheon.

Action Items

Chairman Carnes asked for a motion to accept the June 2001 minutes.

Motion made to accept the minutes.

MMS - passed.

Executive Director Update

Executive Director, Denise Lucciola updated the Council and referred to handouts she had enclosed in Council Members' packets.

Ms. Lucciola stated that the Oracle program is progressing in a timely fashion. The Oracle project managers will do a presentation of the calendar program they have implemented within the department at the next Council meeting.

Ms. Lucciola stated that although there has been no movement on the budget, she did enclose in Council Members' packet a memo regarding the Senate's Fiscal Year 2002 Budget Recommendations. Their allocation of \$18,792,473 is \$150,000 more than both the Governor's recommendation and the House Ways & Means. She will continue to inform the Council of any other developments.

Ms. Lucciola thanked Mr. Ken Owens, chief researcher for the Joint Committee on Commerce & Labor for his assistance with legislation. She also mentioned that the new chief of staff for the Committee is Joe Sgroi and that she will invite him to meet with the Council at a later date. Mr. Owens explained to Council Members that both House Bill 2114 (Judicial Term Staggering) and House Bill 2648 (Judicial Code of

Conduct) were voted favorably by the committee. Mr. Owens stated that bills regarding the exemption of corporate officers had been combined into one bill. This new bill is now at the Clerk's Office awaiting a bill number.

Ms. Lucciola continued her update and informed the Council that Eastern Casualty announced a moratorium on new workers' compensation policies in Massachusetts. She then referred to the article in Council Members' packet that stated that Eastern would honor existing policies. They are still in a dispute with the Division of Insurance.

Ms. Lucciola expressed her concern to the Council regarding the DIA's decision not to renew the contract for Susan Anderson (a DIA legal consultant), who has been working with the Office of Education and Vocational Rehabilitation (OEVR). The Executive Director explained that Ms. Anderson was instrumental in drafting the OEVR manuals and worked closely with Council's OEVR Subcommittee.

Council Members agreed that they were not in favor hiring consultants for the Advisory Council, but it was necessary to see whether or not her assignment had been completed. It was decided that Council Member Falcone and Mr. Hayes will meet with the Director of Vocational Rehabilitation regarding the status of Ms. Anderson's report and will inform the Council of its status.

Chairman Carnes thanked Ms. Lucciola and asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed. Meeting adjourned 11.45 a.m.

The next regular meeting of the Advisory Council: August 8, 2001 at 9:00 AM, Division of Industrial Accidents, 7th Floor Conference Room, and 600 Washington Street, Boston, MA 02111.