

**Massachusetts Workers' Compensation
Advisory Council Minutes**

November 5, 1997
Department of Industrial Accidents
600 Washington Street
Boston, MA 02111

Chair: Edmund C. Corcoran, Jr.

Vice Chair: William H. Carnes

Present: Chairman Edmund C. Corcoran, Jr. CM: Edward Sullivan, Jr.; Tony Frias; Robert Banks; John Gould; (Donald Baldini); Joseph Tamulis; Lawrence Morrisroe; Amy Vercillo; Alan S. Pierce; Department of Labor & Workforce Development (Joan Lenihan); Department of Economic Affairs (John Melina).

Also Present: DIA: Senior Judge Jennings; Bill Sivert; Vinny Luca; Robert Davis. Diane Jacobs (Division of Health Care Finance & Policy); Carol Falcone.

Staff: Matthew Chafe; Andrew Burton; Ann Helgran.

Absent: CM: J.Bruce Cochrane; Vice Chair William H. Carnes; John Perry; Jeanne-Marie Boylan.

Agenda:

DIA Update

Wage Benefit Study Presentation - Ann Conway, Tillinghast

Legislation - Terms of Judges (H.5042)

Action Items

- Minutes - October 8, 1997

Executive Director Update

- insurance manual
- ii. rate filing hearing

Chairman Corcoran opened today's meeting and introduced the two staff members from Representative Koczera's office: Tom Jones and Elizabeth Cellucci.

DIA Update

Senior Judge Jennings addressed the Council. His memo on decisions outstanding is attached to the minutes. Currently the DIA has 24 administrative judges (21 permanent and 3 recall judges). He updated the Council on the October statistics. The hearing queue 1,365; conference queue 1,351; the impartial exams 1,836 (indigency granted) (40); the reviewing board inventory 443 with 185 resolved. The Senior Judge has been assigning 36 cases per panel a month.

Chairman Corcoran thanked Senior Judge Jennings and asked him to participate in the discussion of H. 5042 which was also on the agenda. He then asked Mr. Sivert to update the Council on personnel issues and budgetary matters.

Budgetary Matters - Personnel Issues

Mr. Sivert referred to the Fiscal Year 1998 Proposed Spending Changes (attached to minutes) sent to Council Members. Mr. Luca reviewed the plan for the Council. Monies made available as a result of the shift in the personnel budgeting will total \$355,299 and used to purchase computer equipment, software, supplies, etc.

Mr. Sivert stated that all openings for personnel have been filled internally except for a computer programmer. The DIA may have to recruit qualified candidates from outside the agency. Personnel update:

- Judge Gromelski's position was filled by Judge Heffernan.
- Judge Bradford retired and his position is open.
- An EDP Programmer position is open.
- A Training Officer position was filled by a secretary.
- Four Administrative Secretaries were transferred to positions throughout the agency.
- A Research Analyst was transferred to Office of Health Policy

- An Administrative Service person was promoted to Investigator.

- OEVR Director's position was filled by Bob Demetrio.

Chairman Corcoran thanked Mr. Sivert and Mr. Luca. He requested that the DIA continue with its personnel update each month.

Stop Work Orders Stop work orders report was included in Council Members' packets. October Investigations, 456; total SWO's issued, 194; total fines imposed, \$0.

Wage Benefit Study Presentation - Ann Conway, Tillinghast

Ann Conway of Tillinghast updated the Council on the study of cost impact of increasing workers' compensation wage benefits. Ms. Conway reviewed the report and the analysis of the proposed changes to §34 and §35 of ch. 152 of M.G.L. and handed out a copy of her slide presentation (attached to minutes).

Chairman Corcoran thanked Ms. Conway.

Discussion was held and various issues were raised by Council Members regarding the report. Council Members expressed confusion regarding language, definitions, and the ability of lay readers to interpret the contents of the report.

Chairman Corcoran requested that the report be made more readable and that Council Members concerns be addressed. He also noted that a meeting will be held tomorrow with the Chairmen of the Joint Commerce and Labor Committee, and hoped to be able to submit the report at that time. He suggested a motion be made regarding the report.

Motion made to accept the report provided the changes to the chart on page 9 is simplified and that terms on that page are defined.

MMS - passed

Chairman Corcoran thanked Ms. Conway. The Executive Director pointed out the great amount of interest in this issue by the various articles he had enclosed in Council Members' packets.

Legislation - Terms of Judges (H.5042)

Chairman Corcoran noted that members of the Council were contacted by Representative Koczera's office regarding H.5042 and a hearing on this bill was held Tuesday, October 28.

Although he was unable to attend he did send written testimony and asked the Council's input in supporting H.5042.

The Executive Director memo of October 23rd outlines H. 5042 (attached to minutes), which addresses the upcoming appointments of the Industrial Accident Board and Reviewing Board Judges. The bill would require the staggering of administrative judge appointments beginning in 1998. The bill would also increase the number of permanent administrative judges positions at the DIA from twenty-one to twenty-five.

Discussion followed regarding the bill's contents. Council Members stated they were not clear as to how many judges were needed at the DIA. Senior Judge Jennings stated that 24-25 judges would be sufficient. He believed that the scheduling process is driven by conferences, and he felt he could control the assignment of conferences during the appointment process to avoid a backlog of cases from accumulating. Opinions were voiced regarding the staggering of judges terms and probationary periods for judges.

Everyone agreed to the staggering of terms but objection was taken to the inclusion of a probationary period.

Chairman Corcoran asked for a motion to support H.5042.

Motion made to support the bill.

MMS - 4 opposed, 4 in support - did not pass

Chairman Corcoran suggested the bill be redrafted and that a telephone poll be conducted
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4 Motion made to conduct a telephone poll on a revised bill.

MMS - passed

Executive Director Update

Insurance manual (November 3, 1997 memo attached).The Executive Director stated that the Division of Insurance issued a decision and order regarding the Massachusetts Workers' Compensation Insurance Manual proposed by the WCRIB in November, 1996. Commissioner Ruthardt has declined to approve the proposed changes to the classification section of the manual which will be subject to appeal.

Rate filing: no hearing dates have been set as yet, there will be a hearing to set the dates tomorrow.

Action Items

Chairman Corcoran asked that a motion be made to accept the October 8, 1997 minutes.

Motion made to accept the minutes.

MMS - passed.

Motion made to adjourn.

Meeting adjourned 11:30 A.M.

The next regular meeting of the Advisory Council will be held on December 10, 1997, at the Division of Industrial Accidents, 7th Floor Conference Room at 9:00 AM, 600 Washington Street, Boston, MA 02111