

**Massachusetts Workers' Compensation
Advisory Council Minutes**

March 12, 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.; Vice Chair William H. Carnes

CM: Edward Sullivan, Jr.; John Gould (Donald Baldini); John Perry; Tony Frias (Ines Leonardo); Lawrence Morrisroe; Robert Banks; Amy Vercillo; Alan S. Pierce; Angelo Buonopane, Director of the Dept. of Labor & Work Force Development (Ken Paradis, Spencer Demetros and Joan Cunningham); Economic Development (John Malena)

Staff: Andrew Burton; Matthew A. Chafe; Ann Helgran

Also Present: DIA: Commissioner Campbell; Bill Sivert; Neil Gibbons (WCRIB); Carol Arrick Wells (Department of Mental Retardation); Joseph Tamulis (T Equipment Corp.); Diane Jacobs (Rate Setting Commission); Carol Falcone; Mark Horan (Chair, Workers' Compensation of the Massachusetts Mass Bar Association)

Absent: CM: Robert Jones; Jeanne-Marie Boylan; J. Bruce Cochrane

Agenda:

DIA Update

DIA Budget

Employer Fines Meeting Update

Workers' Compensation Legislation

Action Items

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Executive Director Update

Miscellaneous

Chairman Corcoran opened today's meeting.

DIA Update

Budgetary Matters

Bill Sivert, Director of Administration, updated Council members on the DIA's budget. He referred to a memo regarding the agency's request to transfer funds between subsidiary accounts in fiscal year 1997, and a memo analyzing the impact of cuts contained in the fiscal year 1998 budget. (Attached to minutes.) He noted that the fiscal year 1998 budget as contained in by House I is \$17 million (\$2 million less than the fiscal year 1997 appropriation). In reviewing the fiscal year 1998 budget Mr. Sivert noted that the number of full time employees will be reduced to 301. A savings of \$700,000 will be realized by delaying the five year paperless office initiative.

The agency has requested that \$911,034 be transferred from the HH subsidiary into several other subsidiaries during fiscal year 1997. The DIA proposes to add \$200,000 to the safety grant program this fiscal year, transferring from HH to JJ.

Council members were informed that Senior Judge Jennings was not available today to update the Council because of an injury. Doug Sears, Deputy Director of Dispute Resolution, was called to update the Council. He informed members that he would avail himself to communicate questions and concerns to the Senior Judge, and answer their questions as best as possible. He was not prepared to provide the Council with information on the scheduling queues, given the short notice of his requested presence.

Council members discussed among themselves the appropriate number of judges and the role of one year recall AJs. Chairman Corcoran thanked Mr. Sears for his assistance.

Stop Work Orders

Mr. Sivert updated the Council on stop work orders. February Investigations, 341; total SWO's issued,

173; total fines imposed, \$800. Figures are down because of sickness in the unit. A tenth investigator was added to the staff, Jim Landoli.

Chairman Corcoran thanked Mr. Sivert for his time.

Employer Fines Meeting Update

Chairman Corcoran asked the Executive Director to update the Council on the Employee Fines Meeting.

Matthew Chafe referred to his memo on legislation recommended by the Employer Fines Committee Members at their Friday, February 7th meeting (attached to minutes). Those attending that meeting were Chairman Corcoran, Council Members Banks, Cochrane, and Baldini, John Keefe (DIA General Counsel), Priscilla Conant (Director of the Trust Fund), Tom Jones (Commerce and Labor Committee), and Ken Paradis (Chief of Staff of Labor & Workforce Development). The Executive Director proceeded to highlight the findings of the Committee. The Committee felt that the best and most effective way to determine a penalty would be that it reflect the amount of premium an employer avoided. He then reviewed his memorandum on the findings of the Committee. (See attached.)

Discussion followed. Council members suggested a letter be sent to Senator Lynch, Commerce & Labor Committee Chairman. Senator Lynch has filed a bill addressing employer fines. It was suggested that he be approached with our concerns, and for his consideration of substituting the committee's bill for his own.

Motion made to approve the draft legislation as contained in the memorandum.

MMS - passed.

Workers' Compensation Legislation

Chairman Corcoran stated that since there were a number of bills to be discussed and time was limited, a special meeting should be held to discuss the legislation. He asked if Council members had special concerns they would like to address presently.

Council Member Pierce stated that he was concerned about proposed legislation which deals with process and procedure at the DIA and the impartial examination process. He supported the idea of a separate session to discuss the bills. He introduced Mark Horan, Workers' Compensation Committee Chair of the Massachusetts Bar Association. Chairman Corcoran recognized Mr. Horan who addressed the Council. He talked about legislation to address the SJC holdings in the Lewis and O'Brien cases (dealing with the duration of section 35 benefits). He also talked about Senate bills 54 and 33 which were

endorsed by the MBA Board of Delegates. He felt they deserved the support of the Advisory Council. He informed Council Members that he would welcome the opportunity to return to a subsequent meeting to discuss the various bills being proposed.

Chairman Corcoran inquired as to the attorney survey conducted regarding the DIA judges. Mr. Horan briefly addressed the survey.

Chairman Corcoran thanked Mr. Horan for his input. He suggested that Council Members attend a separate meeting for legislation in order to discuss the various bills.

Council members agreed to hold two meetings in April; one meeting on April 7th, 1997 to exclusively discuss legislation, and another meeting on April 9th for regular Advisory Council topics.

Action Items

It was suggested that Council Members approve the Governor's recommended budget for the DIA. Chairman Corcoran asked that a motion be made to recommend approval of the House I DIA appropriation of \$17 million dollars.

MMS - passed.

Chairman Corcoran asked that a motion be made to accept the February 12, 1997 minutes. Motion made to accept the minutes of February 12, 1997.

MMS- passed.

Motion made to adjourn 11:00 a.m.

MMS - passed.

The meeting of the Advisory Council to discuss Legislation will be held on April 7, 1997, at 9:00 AM and the next regular meeting will be held on April 9, 1997, at the Division of Industrial Accidents, 7th Floor Conference Room, Boston, MA 02111.