

**Massachusetts Workers' Compensation
Advisory Council Minutes**

May 14, 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: Jeanne-Marie Boylan; John Gould (Donald Baldini); Tony Frias; Robert Banks; Lawrence Morrisroe; John Perry; Alan S. Pierce; Amy Vercillo; Angelo Buonopane, Director of the Dept. of Labor & Work Force Development

Staff: Andrew Burton; Ann Helgran

Also Present: DIA: Commissioner Campbell; Senior Judge Jennings; Bill Sivert; Bob Davis; Neil Gibbons (WCRIB); Brenda Durand (U Mass. Medical); Ann Barry (Mass. Turnpike Assoc.); Sue Carney Massport); Ken Paradis and Joan Cunningham (Dept. of Labor & Work Force Development)

Absent: CM: J. Bruce Cochrane; Robert Jones; Edward Sullivan, Jr.; Economic Develop.

Agenda:

DIA Update

Action Items

- Minutes - March 12, 1997
- Minutes - April 9, 1997

Commerce & Labor Committee Hearing

Executive Director Update

A. Rate Filing Analysis

Miscellaneous

Chairman Corcoran conducted today's meeting.

DIA Update

Senior Judge Jennings addressed the Council. The conference queue has increased to 2,168. There are now seven judges off-line. The reviewing board last month had 21 appeals and 130 cases resolved. The total reviewing board queue is now 485. The impartial exams for this fiscal year total 4,000; 69 fees were waived. Judges' decisions outstanding over a six month period average 12. Judge Jennings noted that the one year term, recall judges will expire this year, and that next year there will be 15 six year terms expiring. If the DIA were to lose the four recall judges at this time (with seven AJs offline), there would be more hearings per judge, and longer periods to get decisions and to get to a hearing. The Senior Judge stated he would not have the ability to take judges off-line.

Council Members expressed their concern about the impact a reduction in judges would have on the caseload. They also voiced the opinion that they would like to have the most productive judges remain. Members suggested a letter be addressed to the Governor by the Advisory Council, to retain the present one year recall judges for one year so that they could be evaluated for appointment to the six year terms available next September.

Chairman Corcoran stated that those that attended the Commerce & Labor Committee meetings on April 30th were aware of the Legislator's concern regarding the status of the judges.

Motion was made to send a letter to the Governor and Lieutenant Governor recommending that the four one year recall judges whose terms are due to expire be retained for another year, and that they be evaluated next year for the six year terms that will open. Motion was amended to include the names of the judges.

MMS - passed

Chairman Corcoran thanked Senior Judge Jennings for his input and asked Mr. Sivert to continue the DIA update. Mr. Sivert updated the Council on stop work orders. April Investigations, 405; total SWO's issued, 201; total fines imposed, \$0. Mr. Sivert explained to Council Members that two investigators had been injured on the job and were out on workers' compensation. Investigations increased, but stop work orders decreased. It appears that more employers are abiding by the law.

Mr. Sivert continued with the status of the DIA budget. He noted that the fiscal year 1998 budget as passed by the House was \$17 million and that the Senate Ways & Means Committee recommendation was due out soon. In reviewing the DIA budget for fiscal year 1998, Mr. Sivert stated that if the number of full time employees was reduced to 301 there would be layoffs. The DIA currently has 314 full-time employees (FTEs). Discussion followed. Council Members expressed concern regarding layoffs. Mr. Sivert explained that there has been a freeze on hiring for open positions in dispute resolution because that is the area that has been identified to be down-sized in fiscal year 1998. The DIA has frozen hiring in the area of vocational rehab., stenographers, and impartial unit. The DIA has reserved the right to hire in other departments as needed. Chairman Corcoran expressed concern in the down-sizing of dispute resolution and cautioned against the shortage of stenographers. Vice Chair Carnes inquired as to the method of replacing judges who are not productive, and was informed that doing so would be extremely difficult. Council Member Boylan asked how the DIA would proceed in cutting back to 301 positions, as to what the filled positions were as of last June, and what they are today. Mr. Sivert stated he would supply the Council with this information. Council Member Frias asked how many 03's were at the DIA now. Mr. Sivert stated he would get this information to him. Council members asked about the focus on downsizing in dispute resolution. Concern was expressed about downsizing in this area and expansion in other areas. Council Members inquired as to the hiring of a Press Secretary as a DIA employee that does not work at the agency. Mr. Sivert explained she works at One Ashburton Place in another agency, but is a DIA employee.

Chairman Corcoran thanked Mr. Sivert.

Action Items

Chairman Corcoran asked that a motion be made to accept the March 12, 1997 and April 9, 1997 minutes. Motion made to accept the minutes. MMS- passed.

Commerce & Labor Committee Hearing

Chairman Corcoran updated the Council. On Wednesday, April 30, 1997, the Legislature's Joint Committee on Commerce & Labor held a hearing to review the workers' compensation bills before the Committee. Chairman Corcoran and Vice Chair Carnes testified on behalf of the Advisory Council.

Among those bills reviewed was H.1441 which would increase §34 and §35 wage benefits to 2/3 of average weekly wage, and increase the duration to 260 weeks for §34 and 600 weeks for §35. The Committee discussed with the Chair and Vice Chair the prospect of the Advisory Council conducting a study to determine the appropriate benefit levels and duration periods for injured workers.

Chairman Corcoran informed the Committee that a wage replacement study was done in 1994, but there was not enough data at that time for an effective study. Chairman Corcoran felt it would be appropriate for the Council to commission another study. Vice Chair Carnes felt that the hearings went well and that both sides were well represented. He pointed out that if H.1441 passes, the Council would be paying for a study that would be moot.

Discussion followed about the feasibility of conducting such a study and what should be covered in the interests of injured workers and management. Chairman Corcoran asked for a motion to initiate a wage replacement study. Motion made to revisit the wage replacement study.

MMS - 8 in favor 1 opposed (Vice Chair Carnes) - passed

Executive Director Update

Chairman Corcoran announced that the Executive Director was absent for the birth of his daughter. More details could be obtained from staff members. Chairman Corcoran reviewed the fact that Mr. Ruy Cardoso of Ernst & Young attended last month's meeting and had been commissioned by the Council to conduct an analysis of the next rate filing and to update them on rate making concepts. The Council had voted to hire Ernst & Young for a three phase project. Phase I was to inform Council Members of the issues involved in the rate process. Phase II was to update the Council from time to time on the insurance market. Phase III will consist of a review of the rate filing when it is submitted.

Chairman Corcoran inquired as to how the Council would like to proceed with Mr. Cardoso's updates. The Council agreed to have Mr. Cardoso continue to come before them with a presentation. Chairman Corcoran asked Mr. Andrew Burton if there was anything he would like to add. Mr. Burton referred to Council Members packets and his enclosures.

Miscellaneous

Chairman Corcoran introduced the new Health Care Services Board Executive Director, Bob Davis. Mr. Davis will be attending Advisory Council meetings on a regular basis. Chairman Corcoran thanked the Council for their active participation in today's meeting. Motion made to adjourn 11:00 a.m.

MMS - passed.

The next regular meeting of the Advisory Council will be held on June 11, 1997, at the Division of Industrial Accidents, 7th Floor Conference Room at 9:00 AM, 600 Washington Street, Boston, MA 02111.