

**Massachusetts Workers' Compensation
Advisory Council Minutes**

June 11, 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.; Jeanne-Marie Boylan; John Gould (Donald Baldini); Robert Banks; Department of Labor & Work Force Development (Joan Cunningham); Alan S. Pierce.

Staff: Andrew Burton; Matthew Chafe; Ann Helgran

Also Present: DIA: Senior Judge Jennings; Bill Sivert; John Keefe; Bob Davis; Donna Ward. Paul Meagher (Legal Counsel, WCRIB); Neil Gibbons (WCRIB); Ann Barry (Mass. Turnpike Assoc.); Doug Somerville.

Absent: CM: Robert Jones; Lawrence Morrisroe; John Perry; Tony Frias; J. Bruce Cochrane; Amy Vercillo; Department of Economic Affairs

Agenda:

DIA Update

Action Items

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Insurance Manual - Paul Meagher, Legal Counsel, WCRIB

DIA Employer Assessments

Wage Benefit Study

Executive Director Update

Miscellaneous

Chairman Corcoran conducted today's meeting and welcomed Mr. Somerville who was attending for Council Member Cochrane.

DIA Update

Senior Judge Jennings updated the Council. The conference queue is 2,654; hearing queue is 1,400; the average judges' decisions outstanding is 8; impartial exams conducted this fiscal year (as of 4/30) are 4,500 (there will be probably 400 less exams done this year); the reviewing board has heard 35 appeals, resolved 153 cases, and has an inventory of 458 cases. Five judges are off-line and two judges are on modified schedules. Senior Judge Jennings stated that a training session for judges will take place next week, conducted by the Flaschner Institute. Diversity, writing, evidence, and ethics sessions will be held. The Senior Judge also stated that the Governor's Office has decided to re-appoint the four recall term judges for the next year. The nominating panel will be meeting in the next few days. Council Members discussed how to proceed with the rating of judges for reappointment. It was decided that the Council would wait until Senior Judge Jennings submits his review and nominating panel materials. A telephone poll will be conducted of Council Members as to their ratings and the results will be forwarded to the Governor.

Chairman Corcoran thanked Senior Judge Jennings for his input. The stop work orders report was included in Council Member's packets. May Investigations, 392; total SWO's issued, 191; total fines imposed, \$0. Mr. Sivert addressed the Council Members on the DIA Budget. On May 15, the Senate Committee on Ways and Means released its fiscal year 1998 budget recommendation (see attached). The fiscal year 1998 budget is now being reviewed by the Conference Committee. Mr. Sivert explained that the DIA has worked on two spending plans; one for the \$17 million budget, and one at the original request of \$19 million. A spending plan has not been prepared for the \$18.4 million that the Senate has proposed. As soon as the budget is approved and designated as to how the funds will be distributed, the DIA will have a spending plan to present to the Council. Chairman Corcoran thanked Mr. Sivert and welcomed Mr. Paul Meagher of the Workers' Compensation Rating and Inspection Bureau.

Insurance Manual

Mr. Paul Meagher, Legal Counsel of the WCRIB, came before the Council today to address the subject of the WCRIB Massachusetts Workers' Compensation and Liability Insurance Manual. He informed Council

Members of the upcoming hearing at the Division of Insurance and that the manual is proposed to become effective July 1, 1997, upon approval by the Commissioner of Insurance. Mr. Meagher noted that Massachusetts has been without a manual since April of 1996. The manual serves as both an outline and guideline that employers, agents and insurers use for most of the rules in Massachusetts regarding classifications. Mr. Meagher came before the Council today to ask for the Council's support in asking the Commissioner to act upon it as soon as possible. He stated that the WCRIB is anxious in getting the manual approved. Mr. Meagher explained that no new classifications or rates have been requested, as the manual only includes expanded descriptions of the various classifications.

Chairman Corcoran thanked Mr. Meagher for addressing the Council. Council Members directed the Executive Director to attend the hearing on behalf of the Council to observe the issues raised at the hearing. He will report to the Council on the issues raised at the hearing.

DIA Employer Assessments

The Executive Director explained that every year the Council is required to examine the trust fund budgets which establish the employer assessment rates. At present Tillinghast's draft report is not available but should be ready soon. The assessment rates are to be effective July 1st. As soon as he obtains the information from the DIA, he will distribute it to the Council Members. Chairman Corcoran asked about the status of the Shelby Mutual cases and was informed that most have been settled; one case remains open. Therefore, there will be no need for money to be set aside for these cases next year.

Wage Benefit Study

At the last Advisory Council meeting a motion was made to conduct a study regarding H.1441 which would increase §34 and §35 benefits to 2/3 of average weekly wage and extend the duration of the benefit periods for each section. Council Members expressed a number of concerns and objectives for this project. The Executive Director reviewed some of the literature and other studies on the subject (memos of June 4, 1997 attached to minutes).

He stated that a number of studies have been conducted over the years examining the many factors involved in determining benefit levels for replacement of wages of injured workers. The Executive Director in reviewing his options for the Council on the benefit study noted that the Commerce and Labor Committee was interested in the cost impact of increased benefits.

Discussion followed. Council Members agreed to conduct the study from the perspective of the cost impact of increased benefits. Motion was made to address the concerns of the Commerce & Labor Committee and to conduct a study which would project the cost impact of increasing benefits and their

expansion in durations according to H. 1441, as well as other incremental increases and variations on benefit increases.

MMS - passed.

Chairman Corcoran asked the Executive Director to proceed in obtaining a vendor to conduct the study.

Action Items

Chairman Corcoran asked that a motion be made to accept the May 14, 1997 minutes. Motion made to accept the minutes.

MMS - passed.

Motion made to adjourn 11:00 a.m.

MMS - passed.

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