

STATE OF NEW MEXICO
ADVISORY COUNCIL ON WORKERS' COMPENSATION
AND OCCUPATIONAL DISEASE DISABLEMENT
MINUTES

MEETING DATE: May 2, 2023
Main office, 2410 Centre SE, Albuquerque, NM 87106

Members Present: Darrell Deaguero, Courtenay Eichorst, Sara Ranney, Marni Goodrich,
Buffy Jackson and Director Robert Doucette, as ex-officio.

1. Call to Order and Introductions: 2:36 p.m. All council members present. Buffy Johnson had a marital name change to Buffy Jackson.
2. Approval of agenda: Courtenay Eichorst made a motion to approve the agenda, seconded by Sara Ranney. Agenda approved.
3. Approval of minutes: Buffy Jackson made a motion to approve the minutes from the December 8, 2022 meeting, seconded by Courtenay Eichorst. Minutes approved.
4. Status of Agency report:
Director Robert Doucette noted he is still the director despite also having been appointed director of the General Services Department two months ago. The governor is still looking for a replacement director for the Workers' Compensation Administration, but until that time, he is overseeing both agencies.
Two months ago, there were two judge vacancies. Now the agency has David Skinner, who was hired to work in Las Cruces three days a week. Tony Couture is back as a judge. A third judge will be announced by June 10, at which time there will be a total of six judges, a first for the agency.
There are 122 full-time positions, with 14 current vacancies. The field office positions remain largely filled, with 27 of 29 positions staffed.
The agency's budget was approved in the last legislative session. The 200 category of the budget, which is for personnel, is \$640,000 less than it was last year. Because of the reduction in budget and the recent pay raises given to some agency employees, the agency will have to maintain an eight percent vacancy rate through the next year. It would be helpful if the Council could assist in getting the budget increased. There is \$6 million in the agency's current reserve, of which \$2 million is earmarked for the C2 (computer applications upgrade) project.
The Uninsured Employers' Fund (UEF) had 23 material audit findings. In response, the agency hired an outside consultant to oversee fixes. The Department of Insurance audits the UEF annually, by statute. The director is confident the UEF will pass its next audit given the measures currently being put in place.
As a legislative update, HB 329, which would have increased workers' compensation penalty fees, died in the House judiciary. HB 330 removed language from the statute to comply with the 2016 NM Supreme Court case on farm and ranch workers' compensation. It passed the House but died in the Senate. SB 369 amended NM Occupational Disease Disablement law to add a few new medical conditions. It died in the Senate judiciary committee. HB 455 amended statute to increase the amount of discovery costs advanced from the employer and increased the maximum awardable

attorney fees. The bill had been introduced by Rep. Pamela Herndon. Now HM 83, sponsored by Rep. Herndon, the memorial creates a task force to study the attorney fee cap. The director hopes to present a report to the Advisory Council by April 30, 2024. He has been deliberate in selection of those on the task force.

Council member Jackson asked what the audit from a contractor will cost the agency, and what budget category that would fall under. The funds come out of the contracts budget, and the cost is about \$50-60,000 per year. The contract is through the Office of the Superintendent of Insurance (300 category). The money comes out of the UEF fund. Jackson thanked the director for his dual service.

5. Advisory Council Chair Report:

Co-Chair Deaguero reported that the legislative session this year was tough. He had to re-learn the process. There were several bills that revolved around workers' compensation (see earlier recap). Deaguero thanked Representative Herndon, who had sponsored HB 455, for coming to the meeting that day. Rep. Herndon said she had heard many good things about the Advisory Council and workers' compensation.

6. Legislative Discussion

Courtenay Eichorst, who is part of the Council's legislative committee, said he is glad the task force has been put in place. He would like the legislative subcommittee to meet this summer to put legislative priorities together. He notes that workers' compensation has become increasingly important recently, as job growth in the state is booming. Seven or eight years ago, his Local 412 had about 100 apprentices. Now it has 400. With that increase comes the chance for more accidents. It would be nice to see where the task force is in January and be able to take that information to the Legislature next year. Periodic updates to the Council on the task force would be ideal. The Council wants what is best for New Mexico. Deaguero said he was impressed that the task force has two workers on it, so their voices can be heard. Director Doucette said Rep. Herndon had requested that, and he thanked her.

7. Appointments to IME Committee

Eichorst said that when Jeep Gilliland died, it opened the door for a spot on the labor side of the IME Committee. He nominated Jeff Steele with Ironworkers Local 495. Sara Ranney seconded the nomination. The Council voted unanimously to appoint Steele to the committee.

8. Open Meeting Resolution

Buffy Jackson made a motion to approve the Open Meetings Resolution for 2023. Marni Goodrich seconded. The Council unanimously approved.

9. Public Comment

Merilee Dannemann said she had a new flyer on the tax exemption provision for any injured workers who are permanently totally disabled. The exemption is written in the tax laws and awarded by counties. PTD workers get a tax break on their property if they are homeowners. She has talked with the Bernalillo County Assessor and has spoken to the Workers' Compensation Association to make sure anyone with PTD can go to their local tax assessor and file for the exemption. Sara Ranney asked what the best way would be to let people know about the exemption. Dannemann said it was in the Tax and Revenue website, but it was difficult to find. The best option would be for everyone who deals with claimants to tell them. Insurers would be a

good point of dissemination. Dannemann said she would be reaching out to claims people next week.

10. Next Meeting

The next Advisory Council meeting will take place Wednesday, June 21 at 2 p.m.

11. Adjourn

Jackson made a motion to adjourn the meeting, seconded by Ranney. Meeting adjourned at 3:10 p.m.

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