

MEETING NOTICE AND AGENDA

Name of Organization: Legislative Committee on Workers' Compensation

(Nevada Revised Statutes 218.5375)

Date and Time of Meeting: Monday, August 10, 1998

9:30 a.m.

Place of Meeting: Grant Sawyer State Office Building

Room 4401

555 East Washington Avenue

Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Legislative Building

Room 1214

401 South Carson Street

Carson City, Nevada

AGENDA

I. Opening Remarks

Senator Ann O'Connell, Chair, Legislative Committee on Workers' Compensation

*II. Approval of Minutes of the Meetings of February 20, 1998, and June 24, 1998

*III. Report on the Fifth Anniversary of the Workers' Compensation Fraud Unit

Kevin Higgins, Chief Deputy Attorney General, Office of the Attorney General

*IV. Progress Report on the Implementation of Three-Way Insurance from the Commissioner of Insurance

A. Regulations Related to the Residual Market

Alice A. Molasky-Arman, Commissioner of Insurance

B. Development of Program for the Training of Workers' Compensation Insurance Agents

Alice A. Molasky-Arman, Commissioner of Insurance

*V. **Work Session**—Discussion and Action Regarding Certain Remaining Recommendations from the Work Session Document (see attached list of recommendations)

Senator Ann O'Connell, Chair, Legislative Committee on Workers' Compensation

A. Recommendation *i* Related to Information Collected by the Division of Industrial Relations (DIR)

Robert Ostrovsky, Ostrovsky & Associates

B. Recommendations *ii* Related to the Information System Proposed by the DIR for Three-Way Insurance, *iii and iv* Related to the Qualifications for Associations of Self-Insured Employers, and *viii* Related to the Hearings and Appeals Process

Sam McMullen, The McMullen Strategic Group

C. Recommendations *v* and *vi* Relating to the Regulation of Insurers Under Three-Way Insurance

James Wadhams, Representing:

American Insurance Association

Nevada Independent Insurance Agents

D. Recommendation *vii* Relating to the Definition of "Insurer" in the Nevada Insurance Code

Gary Milliken, GEM Consulting

*VI. Report from the Voluntary Working Group Regarding Owner-Controlled Insurance Programs

Jim Schober, Chief Operating Officer, Kaercher Insurance

Sam McMullen, The McMullen Strategic Group

*VII. Presentation Regarding Subrogation (NRS 616C.215), Permanent Total Disability (NRS 616C.435), and Primary Cause (NRS 616C.175)

Leslie Bell, CDS of Nevada

Timothy E. Rowe, McDonald Carano Wilson McCune Bergin Frankovich & Hicks LLP

VIII. Public Comment

*IX. Discussion of Next Meeting Date

X. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Susan Furlong Reil, at 684-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; Carson City Courthouse, 198 North Carson Street; Legislative Building, Room 1214, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue.

WORK SESSION DOCUMENT

Legislative Committee on Workers' Compensation

Nevada Revised Statutes 218.5375

August 10, 1998

At its meeting on June 24, 1998, the Legislative Committee on Workers' Compensation held the following eight recommendations contained in the Committee's Work Session Document for further discussion at the August 10, 1998, meeting of the Committee:

Three-Way Insurance

i. Repeal *Nevada Revised Statutes* (NRS) 616B.012(6) which requires the Administrator of the Division of Industrial Relations (DIR) to collect certain information from insurers.

Robert Ostrovsky; support expressed by James Wadhams; 4/7/98

(Formerly identified as Recommendation 3 in the June 1998 Work Session Document.)

ii. Enact legislation to allow the DIR to collect only basic claims information as described in materials provided by the Nevada Self-Insurers Association in Attachment I.

Linda Collins, Nevada Self-Insurers Association, 5/28/98

(Formerly identified as Recommendation 42 in the June 1998 Work Session Document.)

Qualifications for Associations of Self-Insured Employers

iii. Amend NRS 616B.350(5)(h) regarding the qualifications of a self-insured association to allow a new member to join an association without providing to the Commissioner of Insurance a reviewed financial statement prepared by an independent certified public accountant. The amended provision would apply to self-insured associations that have at least 20 members or a combined net worth of \$5 million, and have an audited financial statement.

Mary Lau, Executive Director, Retail Association of Nevada, 4/7/98

(Formerly identified as Recommendation 7 in the June 1998 Work Session Document.)

iv. Repeal NRS 616B.386(3)(a) and 616B.386(3)(b) which require an employer to have a tangible net worth of at least \$500,000 or a reported payroll resulting in workers' compensation premiums of \$15,000 in order to join a self-insured association.

Mary Lau, Executive Director, Retail Association of Nevada, 4/7/98

(Formerly identified as Recommendation 8 in the June 1998 Work Session Document.)

Regulation of Workers' Compensation Insurers

v. Specifically exempt all insurers who provide workers' compensation, including SIIS, from the following provisions of NRS, as they relate to workers' compensation and not other lines of insurance:

a. NRS 679B.430(2) and 679B.450 relating to the fund for the stabilization of insurance costs;

b. NRS 680A.140 which requires an insurer to deposit cash or securities; and

c. NRS 679B.310 through 679B.370 which relate to the Commissioner holding hearings to determine whether an insurer or an employee of an insurer has engaged in unsuitable

conduct.

James Wadhams, 4/7/98

(Formerly identified as Recommendation 15 in the June 1998 Work Session Document.)

vi. Specify that NRS Chapter 686A is the exclusive jurisdiction of the Commissioner of Insurance, except to the extent that workers' compensation benefits to claimants are administered by DIR. Clarify that the authority of DIR in the area of claims practices specifically relates to the responsibility of insurers to pay benefits to injured workers.

James Wadhams, 4/7/98

(Formerly identified as Recommendation 13 in the June 1998 Work Session Document.)

vii. Amend NRS 686B.1759 to read as follows to specifically exempt associations of self-insured employers from the definition of insurer:

"Insurer" means the state industrial insurance system and all private carriers authorized to provide industrial insurance in this state. The term does not include:

1. An association of self-insured private employers, as defined in NRS 616A.050; or
2. An association of self-insured public employers, as defined in NRS 616A.055.

Tom Wheeler, Nevada Contractors Network

(Formerly identified as Recommendation 41 in the June 1998 Work Session Document.)

Hearings and Appeals Process

viii. Amend NRS to establish the following standards for Appeals Officers:

- a. Tighten standards against ex parte communications or relationships (including entertainment, gifts, et cetera, comparable to other similarly-situated decision makers) with attorneys or other representatives who appear in front of Appeals Officers; and
- b. Require that Appeals Officers must have experience in workers' compensation law.

Sam McMullen, 5/28/98

(Formerly identified as Recommendation 39 in the June 1998 Work Session Document.)

Copies of the attachments are available through the Research Division of the Legislative Counsel Bureau. You may contact Susan Furlong Reil at (702) 684-6825 to obtain copies of the attachments.