

Meeting minutes: Workers' Compensation Advisory Council

Date: Jan. 26, 2022

Minutes prepared by: Elizabeth Cole, executive secretary to the Workers' Compensation Advisory Council

Location: Webex meeting

Attendance

Members attended

Jason Bartlett
Bill Gschwind
Maggie Hobbs
Doug Loon
Gary Thaden
Kevin Yakes
Colin Beere
Bill McCarthy
Edward Reynoso
Robert Ryan
John Thorson

Legislative liaisons attended

Rep. Tony Albright
Rep. Mike Sundin
Sen. Paul Utke
Sen. Jason Isaacson

DLI staff members attended

Commissioner Roslyn Robertson
Assistant Commissioner Kate Daly
Assistant Commissioner Kate Perushek
Ethan Landy
Jessica Stimac
Chris Leifeld
Gretchen Longbehm
Laura Zajac
Julie Klejewski
Elizabeth Cole
Karen Kask-Meinke
Jeanne Vogel

Pam Carlson
Jon Brothen
Carey Wagner
Hared Mah
Brian Mak
Ann Tart
Melissa Parish

Visitors attended

Rep. Dan Wolgamott
Sen. Jeff Howe
Brad Lehto, AFL-CIO
Laurn Schothorst, Minnesota Chamber of Commerce
Jay Wood, Minnesota Fire Service Foundation
Brian Rice, Minnesota Professional Fire Fighters
Scott Vadnais, Minnesota Professional Fire Fighters
Lauren Weaver
Jenny Starr, chief judge, Office of Administrative Hearings (OAH)
Adam Wolkoff, deputy chief judge, OAH
Lynn Carroll, WCRA
John Kysylyczyn
John Wiatros
Aaron Cocking, IFM
Suzanna Kennedy
Kathy Bray
Gary Westman, Department of Administration
Carla Ferrucci, MAJ
Andrew Essling
Karen Ebert, MCIT
Laura Mundt
Joel Carlson

David Sullivan
James Heer
Patricia Milun, chief judge, Workers' Compensation
Court of Appeals
Rebecca Yang
Auntara De
Bette Zerwas
Jessica Stoeckman
Brandon Miller
Debra Zorn
Jessica Nyman
Peter Lindquist
Darin Richardson
Gary Carlson
Michael Lewis
Paul Cassidy

Frankie Johnson
Sarah Hunter
Andrew Morrison
Stephanie Balmer
David Sullivan
Karl-Christian Johannessen
Carrie Jacobson
Matt Massman
Ryan Jirak
Tiffany Gustin
Deb Norsten
Denise Dittrich
Matt Hilgart
Tyler Treichel
Adam Fowler
Helen Roberts

Call to order

Commissioner Roslyn Robertson called the meeting to order at 9:39 a.m. A quorum was present. Pursuant to Minnesota Statutes § 13D.021, the meeting was held remotely because an in-person meeting was “not practical or prudent” due to the ongoing COVID-19 health pandemic.

Meeting minutes and agenda

The commissioner asked for approval of the minutes from the Jan. 13, 2022 meeting and for the Jan. 26, 2022 meeting agenda. A verbal vote was taken and the motion passed.

Agenda items

1. COVID-19 presumption extension discussion

Commissioner Robertson introduced Rep. Dan Wolgamott, Sen. Jeff Howe, Brian Rice of the Minnesota Professional Fire Fighters and Jay Wood of the Minnesota Fire Service Foundation to continue the discussion about the COVID-19 presumption extension. Wolgamott spoke to the council about House File 2656, his proposed bill with Howe to extend the sunset date of the COVID-19 workers’ compensation presumption for public safety, childcare and health care workers until May 31, 2023. It would also be applied retroactively, from Jan. 1, 2022, to cover workers who were not covered due to the expiration of the presumption. The initial proposal of a May 31, 2023, sunset date was meant to cover workers through the end of the next legislative session, so that workers are not uncovered and left in a gap again. Wolgamott said the bill could be amended to change the sunset date to Dec. 31, 2022. He asked the council to consider the thoughtful negotiations that went into this bill in support of the workers.

Rep. Mike Sundin asked about the timeline and procedure of the bill. Commissioner Robertson said it was the preference of the council that there not be a standalone bill that was not recommended by the council and that any compromise be discussed, negotiated and voted on by the council. Doug Loon stated support for the council moving forward expeditiously with a package that strikes a balance between business and labor, and referenced the discussions that have occurred among the council members.

Rice addressed the council about the impact of COVID-19 on fire fighters around the state and the importance of the extension of the presumption for the frontline workers. Wood also testified about the impact of the virus on the firefighting community and the COVID-19 line-of-duty deaths, particularly those that occurred after the presumption expiration, and the importance of extending the presumption. Edward Reynoso voiced his support to move forward as quickly as possible on the proposed compromise to extend the presumption.

Loon addressed the council regarding the steps to strike a balance between business and labor regarding the presumption since it was passed and then extended. The council had a lengthy discussion last year, including addressing the vaccination of public workers, the workers' compensation process and the safety measures taken by the frontline workers. Loon also asked about the retroactivity portion of the proposed bill. Ethan Landy, Department of Labor and Industry (DLI) Office of General Counsel, addressed some potential legal implications. Loon noted the retroactivity piece is something that has not been considered by the council and said it creates potential legal jeopardy and is a contractual issue. Loon indicated the council's package should not include the retroactivity piece.

Rep. Tony Albright reflected on the integrity of the council, in the ability for both business and labor to come together and to bring forward a unified bill that has found consensus among the majority of the council members. Reynoso invited Jessica Nyman to speak on behalf of the Minnesota Nurse's Association on the effect of COVID-19 on the nurses, as well as the current surge the state is experiencing. Nyman also relayed the concern nurses have expressed about the extension of the presumption.

Commissioner Robertson shared a letter from Daniel Greensweig, Minnesota League of Cities Insurance Trust, in which he stated the group's support of a limited extension of the COVID-19 presumption and expressed interest in a larger policy discussion with all interested stakeholders before additional presumptions are added.

Several members addressed the retroactivity piece in Wolgamott's proposed bill and whether it should be considered in the current council proposal. Members also addressed the proposed sunset date, whether it should be extended or revised further, and the potential coverage gap that could be created.

Commissioner Robertson addressed the council and said the principals for business and labor have had meaningful discussions about this matter with their respective sides and that she believed progress was being made to reach a compromise about this presumption extension. Loon reflected that progress has been made through discussion and he feels that, as the council proposal stands, a vote could proceed. Bill McCarthy said the labor caucus is not in agreement about the proposal. He acknowledged the urgency of passing language, but highlighted the need for the presumption to go through at least the end of the year and acknowledged it could potentially move forward without the retroactivity piece if there are legal concerns.

After further discussion about the consideration of this proposal, including retroactivity and the date of the presumption expiration, Commissioner Robertson said more opportunity for further discussion was necessary for the council to reach a consensus. She encouraged the members to continue to discuss a compromise that all would support and proposed that the council reconvene in early February.

2. **Vote on DLI cleanup proposal: Commissioner Robertson and Ethan Landy, DLI Office of General Counsel**

This agenda item will be voted on at the next council meeting.

Adjournment

Commissioner Robertson called for adjournment of the meeting. Reynoso moved and McCarthy seconded a motion to adjourn. A verbal roll call was taken and the motion passed. The meeting was adjourned at 11:11 a.m.

Respectfully submitted,
Elizabeth Cole, executive secretary