

**NEVADA LEGISLATURE**  
**COMMITTEE TO STUDY NEVADA'S INDUSTRIAL INSURANCE PROGRAM**  
(Senate Bill 292, Chapter 433, *Statutes of Nevada 2003*)

**SUMMARY MINUTES AND ACTION REPORT**

The third meeting of the Nevada Legislature's Committee to Study Nevada's Industrial Insurance Program was held on Friday, April 30, 2004, at 10 a.m. in Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's Web site at [www.leg.state.nv.us/Session/72nd2003/Interim](http://www.leg.state.nv.us/Session/72nd2003/Interim). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775/684-6835).

**COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

Senator Ann O'Connell, Chairwoman  
Assemblyman John Ocegueda, Vice Chairman  
Senator Maggie Carlton  
Senator Warren B. Hardy  
Assemblyman David R. Parks

**COMMITTEE MEMBER PRESENT IN CARSON:**

Assemblyman Ron Knecht

**OTHER LEGISLATOR PRESENT:**

Senator Michael A. Schneider

**LEGISLATIVE COUNSEL BUREAU (LCB) STAFF PRESENT:**

Vance A. Hughey, Chief Principal Research Analyst, Research Division  
William L. Keane, Principal Deputy Legislative Counsel, Legal Division  
Lucinda Benjamin, Senior Research Secretary, Research Division

**OPENING REMARKS**

Chairwoman Ann O'Connell called the meeting to order and welcomed the audience and Committee members. Senator O'Connell explained the bill draft request (BDR) process for the 2005 Legislative Session and noted the meeting agenda focuses on obtaining information and recommendations.

**APPROVAL OF MINUTES OF THE FEBRUARY 20, 2004, MEETING**

The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED FOR APPROVAL OF THE MINUTES OF THE COMMITTEE TO STUDY NEVADA'S INDUSTRIAL INSURANCE PROGRAM'S FEBRUARY 20, 2004, MEETING IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY ASSEMBLYMAN PARKS AND PASSED UNANIMOUSLY.

**DISCUSSION OF THE APPROPRIATENESS OF REIMBURSING INJURED WORKERS FOR TIME OFF OF WORK WHILE THEY ARE RECEIVING MEDICAL TREATMENT FOR COMPENSABLE INDUSTRIAL INJURIES OR ILLNESSES**

- Senator Mike McGinness submitted a letter introducing John O'Connor ([Exhibit B](#)).
- John O'Connor, representing the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers-Communications Workers of America (IUE-CWA), Churchill County, stated workers are compelled to miss a full day's work because of the long distances they must travel for medical care. He suggested revisiting the bill introduced by Senator McGinness in the 2003 Legislative Session, which did not pass, to include reimbursement to injured workers for time off work when accessing medical care for compensable industrial injuries or illnesses.

## **REVIEW OF 2005 LEGISLATIVE PROPOSALS CONCERNING BAD FAITH, LICENSING OF ADJUSTORS, MAILING OF COMPENSATION CHECKS, REOPENING OF CLAIMS, PENALTIES, PHOTOCOPYING CHARGES, SELECTION OF TREATING PHYSICIANS, VOCATIONAL ASSESSMENTS, AND CLAIM ACCEPTANCE AND DENIAL**

- Raymond Badger, Badger and Baker Attorneys at Law, provided a history of previous legislative proposals and presented information on proposals for the 2005 Legislative Session ([Exhibit C](#)). Mr. Badger presented nine recommendations for consideration:
  1. Bad faith;
  2. Licensing of adjustors;
  3. Mailing compensation checks from Nevada;
  4. Automatic reopening;
  5. Penalty for unfounded refusal to pay a permanent partial disability (PPD) award;
  6. Photocopying charges;
  7. Willing provider;
  8. Eliminating mandatory vocational assessment; and
  9. Seven days to accept or deny a claim.
- Discussions included: (1) mailing compensation checks from Nevada and why that would be an improvement to the existing system; (2) rights of individuals to challenge decisions in compensation awards; (3) eliminating the mandatory vocational assessment requirement; and (4) a review of inclusive remedy.
- Barbara Gruenewald, Nevada Trial Lawyers Association, provided information on injured workers accessing treatment of any service provider willing to abide by the terms of the Managed Care Organization (MCO) contract.
- Lynn Grandlun Terry, Nevada Orthopedic and Spine Center, presented information on orthopedic surgeons and explained that physicians must comply with Chapters 616 and 617 of *Nevada Revised Statutes*.
- Rosemary Flores, injured worker, provided information on her personal injury case and explained problems with accessing a physician for treatment and rehabilitation services.
- Jessie R. Battey, injured worker, provided information on his personal injury case ([Exhibit D](#)).
- Danny Thompson, Executive Secretary, Nevada American Federation of Labor Congress of Industrial Organizations (AFL-CIO), provided information on: (1) historical changes to legislation regarding bad faith; (2) how individual injured workers have been affected; and (3) a third-party insurers' ability to delay treatment. Mr. Thompson supported the proposals presented by Ray Badger and the issue presented by John

O'Connor.

- Jack Jeffrey, representing Southern Nevada Building and Construction Trades Council, commented on the issues of bad faith, third-party administrators, and insurance companies.

## **DISCUSSION OF THE REPEAL OF PROVISIONS THAT IMPOSE A PENALTY FOR REMOVING A REQUIRED SAFETY DEVICE (FORMERLY *NEVADA REVISED STATUTES* 616D.280)**

- Gary Milliken, Nevada Contractors Insurance Company (NCI), discussed the penalties for removing a safety device.
- Dave Oakden, Claims Administrator for Builders Insurance and NCI, presented information on increased premiums and Occupational and Safety and Health Administration (OSHA) regulations and penalties ([Exhibit E](#)).
- Jack Jeffrey, representing Southern Nevada Building and Construction Trades Council, explained safety issues in the construction industry and stated the responsibility lies with the employer to enforce safety programs.

## **REVIEW OF CRIMINAL PENALTIES IMPOSED FOR FAILURE TO COMPLY WITH AN ORDER OF THE ADMINISTRATOR OF THE DIVISION OF INDUSTRIAL RELATIONS TO CEASE BUSINESS OPERATIONS**

- Charles J. Verre, Chief Administrative Officer, Division of Industrial Relations (DIR), Department of Business and Industry, presented information on Assembly Bill 140 (Chapter 29, *Statutes of Nevada 2003*) regarding the closure of businesses for failure to comply with an order of the Administrator of the DIR and provided an example of a business which refused to close.
- Brian Kunzie, Director, Fraud Control Unit for Industrial Insurance, Office of the Attorney General, stated the Office has not had to prosecute a business for a violation to cease operations and stated support for not changing current laws. He explained that they are an important tool in working with employers who refuse to provide insurance coverage to employees.

## **PUBLIC TESTIMONY**

- Senator Michael A. Schneider commented on constituent issues and provided information about an injury case.
- Rick Stanfield, Jr., injured worker, provided information on his personal workers' compensation case and stated he communicated with Silver State Administrative Services (SSAS) in Las Vegas regarding his case.
- Rick Stanfield, Sr., commented on the workers' compensation process and how delays in treatment adversely affect injured workers.
- ShaSha Sheppard, injured worker, provided information regarding her personal workers' compensation case.
- Jeff Carr, injured worker, provided information on his personal workers' compensation case.
- Craig Michie, injured worker, commented on the removal of "bad faith" language in previous legislation and commented on personal injury cases. Mr. Michie posed questions to Mr. Verre regarding his primary responsibilities as chief enforcement officer of violations of the workers' compensation process.
- John Wiles, Legal Counsel, DIR, explained that Mr. Michie has a workers' compensation case pending in District Court, and objected to Mr. Michie's questioning as inappropriate at this time and in this setting.
- Senator Hardy requested Mr. Michie provide his comments in writing for consideration by the Committee

and expressed concern regarding his line of questioning.

- Assemblyman Knecht asked for a clear and succinct statement from Mr. Michie regarding the intent of his questioning, and also requested he provide testimony in writing to the Committee.
- Chairwoman O'Connell requested Mr. Michie put his questions in writing for the Committee's consideration.
- Senator Hardy commented on the need to provide time for others to testify and to present their concerns, and restated his request that Mr. Michie provide his questions in writing.
- Mr. Michie, identified previously, stated he has difficulty preparing a written statement and asked that a written request be made for his comments.

## **UPDATE ON ISSUES RELATING TO PRESUMPTIVE BENEFITS FOR FIREFIGHTERS AND POLICE OFFICERS**

- Raymond "Rusty" McAllister, Vice President, Professional Firefighters of Nevada, commented on heart and lung benefits for firefighters and police officers and stated that the ad hoc working group has agreed to develop a questionnaire to be presented through the DIR to local governmental entities and individuals who provide workers' compensation presumptive benefits for police officers and firefighters.
- Donald E. Jayne, Jayne and Associates, Inc., representing the Nevada Self Insurers Association, commented on information received from self-insured employers and stated the working group has developed a draft firefighter and police officer heart and lung presumptive benefit informational questionnaire ([Exhibit F](#)).
- Robert S. Hadfield, Executive Director, Nevada Association of Counties, commented on Nevada's policy and the new federal accounting regulations issued by the Governmental Accounting Standards Board (GASB). He stated new technology can assist in gathering credible information which is necessary to examine the impact of public policy decisions. Mr. Hadfield presented a letter to the Committee from the Nevada Association of Counties and the Nevada League of Cities and Municipalities, which provides information on the present value of the unfunded liability statewide, which is \$133 million (\$446 million in future dollars) ([Exhibit G](#)).
- Nancy Howard, Nevada League of Cities and Municipalities (NLCM), concurred with Mr. Hadfield's comments and stated NLCM supports the proposed study.
- Chairwoman O'Connell stated further examination of the issues of health care benefits and workers' compensation benefits including the cutoff age of 70 years should be included in the Committee's Work Session Document.

## **DISCUSSION OF PROJECTED EXPOSURE RELATED TO HEART AND LUNG PROVISIONS OF CHAPTER 617 OF NRS**

- Sue Dunt, Risk Manager, Risk Management Division, Department of Administration, referred to a cover letter and annual report submitted to the Committee titled *Nevada Heart/Lung Coverage, NRS Chapter 617, March 1, 2004*, ([Exhibit H](#)). Ms. Dunt agreed to submit data requested on the proposed questionnaire and stated a portion of the data is already included in the annual report.
- Jim Jeppson, representing Washoe County, stated his agency submitted actuarial studies to the working group and indicated an actuarial study being conducted on a current group of 400 deputies would be completed within 30 days. He stated the information would also be provided to the working group.
- Senator Carlton referred to the Risk Management Division's report and asked for information on the cost of providing services to injured workers versus the amount saved by denying benefits. Ms. Dunt explained the report is completed annually and was not developed specifically for the Committee. She offered to develop a report that meets the Committee's specific requests.

- Ron Dreher, Peace Officers Research Association of Nevada, stated the Association assisted with developing the questionnaire referred to be Mr. McAllister and indicated the final questionnaire will soon be completed.

## **LEGISLATIVE HISTORY OF HEART AND LUNG PROVISIONS OF CHAPTER 617 OF NRS AND REVIEW OF S.B. 292 AND ISSUES TO BE ADDRESSED BY THE COMMITTEE TO STUDY NEVADA'S INDUSTRIAL INSURANCE PROGRAM**

- Vance A. Hughey, Chief Principal Research Analyst, Research Division, LCB, presented a Microsoft PowerPoint presentation titled "A Brief History of Heart/Lung Provisions in Nevada Revised Statutes," dated April 30, 2004 ([Exhibit J](#)). Mr. Hughey also discussed the case of *Gallagher v. City of Las Vegas* ([Exhibit J](#)), which bears upon the history of heart and lung legislation. Mr. Hughey referred to Opinion No. 2002-28 dated August 7, 2002, from the Office of the Attorney General, State of Nevada, regarding a former firefighter's or police officer's claim for coverage of conclusively presumed occupational heart disease ([Exhibit K](#)). Mr. Hughey restated the provisions of Senate Bill 292, which authorizes the interim study of the impact of Nevada's Industrial Insurance Program on injured workers, employers, and insurers.
- Leslie Bell, President, Nevada CompFirst, presented Virginia Boosh's concerns regarding the lump sum payment to injured workers and explained that her case is under investigation regarding permanent partial disability and permanent total disability benefits, including the deduction of the offset. Ms. Bell stated a representative of the Employers Insurance Company of Nevada (EICON) will contact the claims examiner and Ms. Boosh regarding her case. William L. Keane, Principal Deputy Legislative Counsel, Legal Division, LCB, offered to investigate the issue.
- Ms. Boosh, injured worker, presented information regarding her personal workers' compensation case.
- Discussion ensued regarding: (1) cost of living increases of 2.3 percent for injured workers who currently receive worker's compensation benefits; (2) the \$500,000 allocation approved by the 2003 Legislative Session for cost of living increases; (3) calculations for individual awards to injured workers; and (4) a future funding mechanism. Chairwoman O'Connell requested the topic of cost of living allowances be included on a future agenda.

## **DISCUSSION OF FUTURE COMMITTEE MEETING**

- Following discussion by Committee members, Senator O'Connell stated the Committee's next meeting would be held July 6, 2004.

## **ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 2:02 p.m.

Respectfully submitted,

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Lucinda Benjamin  
Senior Research Secretary

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Vance A. Hughey  
Chief Principal Research Analyst

APPROVED BY:

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Senator Ann O'Connell, Chairwoman

Date: \_\_\_\_\_

## LIST OF EXHIBITS

[Exhibit A](#) is the "Meeting Notice and Agenda."

[Exhibit B](#) is a letter dated April 29, 2004, to the Committee from Senator Mike McGinness, Central Nevada Senatorial District, regarding Senate Bill 268 introduced in the 2003 Legislative Session.

[Exhibit C](#) is a list titled "2005 Legislative Proposals" submitted by Raymond Badger, Badger and Baker Attorneys at Law.

[Exhibit D](#) is written testimony presented to the Committee from Jessie R. Battey, injured worker.

[Exhibit E](#) is a document titled "Reduction of Compensation Benefits when Employee Removes or Disables a Safety Device," presented by Dave Oakden, Claims Administrator for Builders Insurance and Nevada Contractors Insurance.

[Exhibit F](#) is a sample questionnaire titled "Firefighter and Police Officer Heart and Lung Presumptive Benefit Information Questionnaire," presented by Donald E. Jayne, Jayne and Associates, Inc., representing the Nevada Self Insurers Association.

[Exhibit G](#) is a letter to the Committee dated April 23, 2004, from Robert S. Hadfield, Executive Director, Nevada Association of Counties, and J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, regarding potential fiscal impact of presumptive benefits under Chapter 617 of *Nevada Revised Statutes*.

[Exhibit H](#) is a letter to the Committee dated March 24, 2004, from Susan Dunt, Risk Manager, Risk Management Division, Department of Administration, forwarding a report titled *Annual State Risk Management Report for Police/Fire Heart and Lung Program*.

[Exhibit I](#) is a Microsoft PowerPoint presentation titled "A Brief History of Heart/Lung Provisions in Nevada Revised Statutes," presented by Vance A. Hughey, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is information on the case of *Gallagher v. City of Las Vegas*, dated May 1998.

[Exhibit K](#) is Opinion No. 2002-28 dated August 7, 2002, from the Office of the Attorney General, State of Nevada, regarding a former firefighter's or police officer's claim for coverage of conclusively presumed occupational heart disease.

This set of "Summary Minutes and Action Report" is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at [www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm](http://www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm) or telephone: 775/684-6827.

