

Minutes
Labor-Management Advisory Council
February 14, 2018
Employment Relations Division, Helena, MT

Advisory Council members present:

Lt. Governor Mike Cooney
Al Smith, Montana Trial Lawyers Association
Marvin Jordan, MCCF
Larry Jones, Montana Self-Insureds Association
Bill Dahlgren, Sun Mountain Sports
Lance Zanto Workers' Compensation Management Bureau
Don Judge, Injured Workers Resource Council
Doug Buman, Laborers' International Union of North America
Jim Larson Teamsters Local 190 via Go To Meeting

Project Core Team members present:

Eric Strauss, ERD Administer
Bill Wheeler, ERD Deputy Administrator
Bryan Page, Safety & Health Bureau Chief
Mark Cadwallader, Department Legal Counsel
Jason Swant, Project Manager

Others present:

ERD

Karen Wiles, Julia Brennan, Bri Lake, Ken Biskupiak, Doug Roope, Kristine Ediger,
Cindy Zimmerman, Peggy Coggeshall, Susan Ryan, & Peter VanNice

MMIA, Ann Komac

MCCF, Vicki Evans

Montana State Fund, Kevin Braun

Montana Chamber, Bridger Mahlum, Sean Becker

AFL-CIO, Jay Reardon

IEAC Committee Staff – Pat Murdo

I. Welcome and Introductions

Lt. Governor Mike Cooney chaired the meeting, greeted those present and introductions were made.

II. Approval of Agenda and Minutes The minutes from the February 14, 2018 meeting were approved with the amendment to change the reference to SJR 27 to SB #4 in section 3 of the minutes. An addition to the agenda was made to include discussion of SB #4.

III. Survey of Occupational Injuries and Illness Census of Fatal Occupational Injuries Programs – Peggy Coggeshall

Peggy's presentation included the program overviews of what is the Bureau of Labor Statistics; what is OSHA; the roles of BLS and OSHA; confidentiality; what is SOII; OSHA Act mandates; coding systems; what SOII asks for; pilot study of DTR industries; recordable cases; data release; summaries of incidence rates of MT vs United States and injuries and illnesses by number of days away from work; case demographics; a description of the Census of Fatal Occupational Injuries (CFOI) and what it is used for; work relationship criteria; scope guidelines and determinations; special studies; CFOI timeline; 2016 Montana fatalities by occupation, nature, body part; source, event, age, gender, race, worker location, activity and status; She also provided the Montana fatal injury rate per 100,000 employees for Montana, Wyoming, Oregon & Alaska for the years 2016, 2015, 2014 and 2013.

IV. Economic Development – Sean Becker, Administrator Office of Tourism and Business Development.

Sean presented information on resources for business assistance including the 10 small business development centers across Montana; the Montana Tech partnership program; the Office of Trade "Export Montana"; Indian Country Programs and; the Big Sky Economic Trust Fund which will sunset in 2019.

Discussion included coordinating outreach to current and new Montana business stressing the importance of safety in the workplace and how safety will keep premiums low. Coordination of outreach was suggested, the inclusion of SafetyFest and consultation services available through the Dept. of Labor and Industry within business resources available through the Business Development

V. Lunch

After lunch, the Department of Labor and Industry's new Administrator Galen Hollenbaugh introduced himself to LMAC and the audience. He provided his background with the State of Montana and thanked LMAC for their service and hard work. He stressed the importance of safety in the workplace and offered any assistance his office could provide LMAC

VI. Interim Economic Affairs Committee – Pat Murdo

Pat provided an update on SJR 27 stating the committee chair wants a decision regarding the Montana State Fund by the next meeting scheduled for April 27, 2018. The meeting of February 8, 2018 looked at the state of the rest of the nation and possible impacts on the Montana State Fund and other state agencies if MSF became private. She further stated the Board of Investments would lose 1.5 billion in assets. The next IEAC meeting will include an NCCI representative who will review loss costs and the fine points of rating making. Pat stated there are 3 IEAC meetings remaining prior to the next session, in April, June and September. They would like to have a bill draft in June and a decision in September. Pat then reviewed the decision tree for the SJR 27 study of the State Fund which included these possible outcomes: remaining as a state entity; move to a private entity; modify with the goal of privatization; modify with goal of leveling the playing field; mutualization and; dissolution. A video from the February 8, 2018 committee meeting on the status of the MSF lawsuit provided by attorney Jameson Walker was viewed.

Discussion included what LMAC's role was and it was agreed to continue to monitor and wait for the EIAC decision before taking a position.

VII. Montana Safety Culture Act – Bryan Page

Bryan reviewed the White Paper, Injury and Illness Prevention Programs, and the purpose and elements of the Montana Safety Culture Act which is to promote and educate. OSHA denied the pilot program with providing a good reason stating it is just not part of their current goals. Bryan suggested a Montana certification rather than the OSHA 10 and he still intends to pursue the program. He stated 39-71-1505 Rulemaking Authority has no teeth to it and suggested replacing the word "shall". Discussion included whether or not to again pursue a MTOSHA plan and the difficulty schools have in giving up 10 hours at a time. A suggestion would be to mix in person and on-line classes.

VIII. State OSHA Plans Effect of Fines and Compliance – Kristine Ediger

Kristine provided a graph of average OSHA penalties by federal or state plans vs. states nonfatal injury/illness incidence rates from the Bureau of Labor Statistics.

IX. HB 449 Rule Adoption Update – Jason Swant

The Public comment period for the proposed rule to implement HB 449 closed on January 19th, 2018. No substantive changes were made to the rule based on comments received during the comment period.

Notice of final rule adoption will be March 6, the rule will be published March 16 with an effective date of April 1, 2018.

A rollout to stakeholders including adjusters and underwriters will consist of mass email. The rollout also includes training sessions during the weeks of March 18 and 25. Claims examiner certification credits will be offered for the training.

X. Public Comment

There was no public comment

XI. Next Steps

Coordinate with the Office of Tourism and Economic Development for the inclusion of Safetyfest and consultation services available through the Department of Labor and Industry's Health and Safety Bureau.

Pursue the Secretary of State's Office and Montana Department of Transportation about potential opportunities to promote safety and consultation services available through the Department of Labor and Industry's Safety and Health Bureau.

Convene LMAC Safety Committee co-chairs, Don Judge & Lance Zanto

The meeting was adjourned