

**2009
ANNUAL REPORT
OF THE
ADVISORY COUNCIL ON WORKERS' COMPENSATION**

Presented to:

The Honorable Brad Henry
Governor

The Honorable James E. Edmondson
Chief Justice, Oklahoma Supreme Court

The Honorable Glenn Coffee
President Pro Tempore of the Senate

The Honorable Chris Bengé
Speaker of the House of Representatives



COMMITTEE MEMBERSHIP

Blake Virgin, Chairman
Jim C. Curry, Vice Chairman

| | |
|-------------------|--|
| Michael D. Carter | Howard Klubeck |
| T. Shane Curtin | Sterling Zearley |
| Ellen C. Edwards | Presiding Judge Kent Eldridge, Ex-officio |
| Dave Koeneke | Court Administrator Marcia Davis, Ex-officio |
| Dan Simmons | |

Issued March 2010

COMMITTEE STAFF

Oklahoma Workers' Compensation Court
William W. Wiles, Jr., Staff Attorney
Tish Sommer, Special Counsel

2009 ANNUAL REPORT OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION

I. INTRODUCTION

The Advisory Council on Workers' Compensation was created by the Legislature in 1990 to analyze and review the workers' compensation system, reports of the Court Administrator, and workers' compensation trends. The Council may recommend improvements and proper responses to developing trends, and consult with the Court on oversight of independent medical examiners.

The Council is composed of nine members, with three members each being appointed by the Governor, President Pro-Tempore of the Senate, and Speaker of the House of Representatives. The Court's Presiding Judge and Administrator serve as ex-officio nonvoting members. The Governor's appointees represent employers, one of whom must be from a list of nominees provided by the predominant statewide broad-based business organization. The President Pro Tempore's appointees are attorneys representing the legal profession in this state, one of whom practices primarily in the area of defense of workers' compensation claims. The Speaker's appointees represent employees, one of whom shall be from a list of nominees provided by the most representative labor organization in the state. The Council is assisted by Workers' Compensation Court staff and met four times during the calendar year.

Advisory Council on Workers' Compensation members serving in 2009:

Blake Virgin, Chairman
Norman, Oklahoma
Governor

Howard Klubeck
Oklahoma City, Oklahoma
Governor

Jim Curry, Vice Chairman
Oklahoma City, Oklahoma
Speaker of the House

Philip Redwine
Norman, Oklahoma
President Pro Tempore of the Senate

Bob Burke
Oklahoma City, Oklahoma
President Pro Tempore of the Senate

Dan Simmons
Oklahoma City, Oklahoma
Governor

Michael Carter
Norman, Oklahoma
President Pro Tempore of the Senate

Robert G. Zapffe
Oklahoma City, Oklahoma
Speaker of the House

T. Shane Curtin
Oklahoma City, Oklahoma
Replacing Philip Redwine
President Pro Tempore of the Senate

Sterling Zearley
Oklahoma City, Oklahoma
Speaker of the House

Ellen C. Edwards
Tulsa, Oklahoma
Replacing Bob Burke
President Pro Tempore of the Senate

Kent Eldridge, Presiding Judge
Ex-officio Nonvoting Member

Marcia Davis, Court Administrator
Ex-officio Nonvoting Member

II. GOVERNING STATUTE

TITLE 85, OKLAHOMA STATUTES, SECTION 112

ADVISORY COUNCIL ON WORKERS' COMPENSATION - MEMBERS - APPOINTMENT - TERMS - VACANCIES - OFFICERS - EXPENSES - MEETINGS - VOTING - DUTIES

- A. There is hereby created an Advisory Council on Workers' Compensation.
- B. The voting membership of the Advisory Council shall consist of nine (9) members. The Administrator and Presiding Judge of the Court shall be ex officio non-voting members.
1. The Governor shall appoint three (3) members representing employers in this state, one of whom shall be from a list of nominees provided by the predominant statewide broad-based business organization;
2. The Speaker of the House of Representatives shall appoint three (3) members representing employees in this state, one of whom shall be from a list of nominees provided by the most representative labor organization in the state; and
3. The President Pro Tempore of the Senate shall appoint three (3) members who are attorneys representing the legal profession in this state, one of whom shall be an attorney who practices primarily in the area of defense of workers' compensation claims.
- C. 1. The term of office for initial appointees shall be as follows:
- a. the term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1992;
- b. the term of office of three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1993; and
- c. the term of office for three positions, one each appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on March 1, 1994;
2. Thereafter, successors in office shall be appointed for a three-year term. Members shall be eligible to succeed themselves in office; and
3. Any person appointed to fill a vacancy shall be appointed for the unexpired portion of the term.
- D. The chairman and the vice-chairman of the Advisory Council, one of whom shall be an employee representative and one of whom shall be an employer representative, shall be elected by the Council from among its voting members.

E. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

F. Meetings of the Advisory Council shall be quarterly or as called by the chair or upon petition by a majority of the voting members. The presence of five (5) voting members constitutes a quorum. No action shall be taken by the Advisory Council without the affirmative vote of at least five (5) members.

G. The Administrator of the Court shall provide office supplies and personnel of the Workers' Compensation Court to carry out any of the duties that have been entrusted to the Council.

H. The Advisory Council shall analyze and review the workers' compensation system, the reports of the Administrator of the Workers' Compensation Court, and trends in the field of workers' compensation. The Council may recommend improvements and proper responses to developing trends. The Council shall report its findings annually to the Governor, the Chief Justice of the Supreme Court, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

I. In addition to other duties required by this section, the Advisory Council shall consult with the Workers' Compensation Court regarding oversight of independent medical examiners as provided in Section 17 of this title.

III. PUBLIC MEETINGS

The Council scheduled five (5) and held four (4) public meetings in 2009. All meetings were held at the Workers' Compensation Court's Oklahoma City location as follows:

Meeting Date

February 12, 2009 - Regular Meeting
April 9, 2009 - Regular Meeting
May 7, 2009 - Regular Meeting (canceled)
September 17, 2009 - Regular Meeting
November 12, 2009 - Regular Meeting

A copy of the agenda and minutes for each of the meetings is in the appendices to this report.

Upcoming regular meetings of the Council for calendar year 2010 are scheduled at 2:00 p.m. in the second floor En Banc Courtroom at the Workers' Compensation Court, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma, on the following dates:

| | |
|-------------------|--------------------|
| January 14, 2010 | May 13, 2010 |
| February 11, 2010 | September 16, 2010 |
| March 11, 2010 | November 11, 2010 |
| April 8, 2010 | |

Appendices

Advisory Council on Workers' Compensation

Appointed pursuant to 85 O.S., §112

NOTICE OF MEETING

The Advisory Council on Workers' Compensation
has regularly scheduled a meeting on

February 12, 2009

2:00 p.m.

at the

Judge's Library of the
Workers' Compensation Court
1915 N. Stiles
Oklahoma City, Oklahoma

AGENDA

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Report on pending legislation regarding Workers' Compensation by Tish Sommer
5. Discussion and possible action with respect to future action by the Council in 2009.
6. New Business.
7. Adjournment.

MINUTES OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION

Date: February 12, 2009

The Advisory Council on Workers' Compensation met as regularly scheduled on February 12, 2009 at 2:00 p.m. in the Judge's Library on the first floor of the Workers' Compensation Court, 1915 North Stiles, Oklahoma City, Oklahoma.

Call To Order: The meeting was called to order on February 12, 2009 at 2:05 p.m. by Advisory Council Chairman, Blake Virgin.

Roll Call and Determination of a Quorum: Members attending the meeting were Mr. Burke, Mr. Carter, Mr. Curry, Mr. Simmons, and Mr. Virgin. Council members unable to attend were Mr. Klubeck, Mr. Redwine, Mr. Zapffe and Mr. Zearley. It was determined a quorum existed. Attending from the Workers' Compensation Court was Bill Wiles, staff attorney, and Marcia Davis, Court Administrator.

Announcements and Introductions: There were no announcements or introductions.

Report on pending legislation regarding Workers' Compensation by Tish Sommer: Ms. Sommer provided a summary of legislation affecting Workers' Compensation introduced during the current session. After discussion by the members, it was agreed it was too early in the session to determine what measures had any likelihood of success. Consequently, it was agreed the topic would be placed on the agenda for the next regular meeting for further report and discussion.

Discussion and possible action with respect to future action by the Council in 2009: The Committee also agreed to postpone further consideration until developments relating to workers' compensation in the 2009 legislative session could be reviewed and discussed at the next regular meeting.

New Business: There was no new business.

Adjournment: A motion to adjourn the meeting was made, seconded and passed by affirmative vote of all members present. The meeting was adjourned at 2:51 p.m.

Advisory Council on Workers' Compensation

Appointed pursuant to 85 O.S., §112

NOTICE OF MEETING

The Advisory Council on Workers' Compensation
has regularly scheduled a meeting on

April 9, 2009

2:00 p.m.

at the

Judge's Library of the
Workers' Compensation Court
1915 N. Stiles
Oklahoma City, Oklahoma

AGENDA

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the February 12, 2009 regular meeting of the Advisory Council.
5. Review, discussion and possible action regarding pending legislation regarding Workers' Compensation.
6. Discussion and possible action with respect to future action by the Council in 2009.
7. New Business.
8. Adjournment.

MINUTES OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION

Date: April 9 2009

The Advisory Council on Workers' Compensation met as regularly scheduled on April 9, 2009 at 2:00 p.m. in the Judge's Library on the first floor of the Workers' Compensation Court, 1915 North Stiles, Oklahoma City, Oklahoma.

Call To Order: The meeting was called to order on

April 9, 2009 at 2:01 p.m. by Advisory Council Chairman, Blake Virgin.

Roll Call and Determination of a Quorum: Members attending the meeting were Mr. Carter, Mr. Curry, Mr. Simmons, Mr. Virgin and Mr. Zapffe. Council members unable to attend were Mr. Burke, Mr. Klubeck, Mr. Redwine, and Mr. Zearley. It was determined a quorum existed. Attending from the Workers' Compensation Court was Bill Wiles, staff attorney, Marcia Davis, Court Administrator, and Tish Sommer, special counsel.

Announcements and Introductions: There were no announcements or introductions.

Discussion and possible action regarding minutes of the February 2, 2009 regular meeting of the Advisory Council. A motion was made and seconded to approve the minutes from the February 2, 2009 meeting. The motion passed by affirmative vote of all members present.

Report on pending legislation regarding Workers' Compensation by Tish Sommer: Ms. Sommer provided a summary of legislation affecting Workers' Compensation introduced during the current session. The likelihood of success of any of the measures was discussed by the members and no need for current action by the Committee was felt indicated.

Discussion and possible action with respect to future action by the Council in 2009: The Committee discussed how creation of the Judicial Nominating Committee had helped de-politicize judicial appointments and the possible increase of political input in the process if senate confirmation of workers' compensation judges were required.

New Business: There was no new business.

Adjournment: A motion to adjourn the meeting was made, seconded and passed by affirmative vote of all members present. The meeting was adjourned at 2:45 p.m.

Advisory Council on Workers' Compensation

Appointed pursuant to 85 O.S., §112

CANCELLATION NOTICE

**THE MAY 7, 2009 MEETING
OF THE ADVISORY COUNCIL
ON WORKERS'
COMPENSATION IS
CANCELED
FOR LACK OF A QUORUM**

Advisory Council on Workers' Compensation

Appointed pursuant to 85 O.S., § 112

NOTICE OF MEETING

The Advisory Council on Workers' Compensation
has regularly scheduled a meeting on
September 17, 2009
2:00 p.m.
at the
2nd floor courtroom
Workers' Compensation Court
1915 N. Stiles
Oklahoma City, Oklahoma

AGENDA

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the April 9, 2009 regular meeting of the Advisory Council.
5. Review, discussion and possible action regarding interim studies of the legislature affecting Workers' Compensation.
6. Discussion and possible action with respect to future action by the Council in 2009.
7. New Business.
8. Adjournment.

MINUTES OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION

Date: September 17, 2009

The Advisory Council on Workers' Compensation met as regularly scheduled on September 17, 2009 at 2:00 p.m. in the Judge's Library on the first floor of the Workers' Compensation Court, 1915 North Stiles, Oklahoma City, Oklahoma.

Call To Order: The meeting was called to order on September 17, 2009 at 2:03 p.m. by Advisory Council Chairman, Blake Virgin.

Roll Call and Determination of a Quorum: Members attending the meeting were Mr. Carter, Mr. Curtin, Ms. Edwards, Mr. Simmons, Mr. Virgin and Mr. Zapffe. Council members unable to attend were Mr. Curry, Mr. Klubeck, and Mr. Zearley. It was determined a quorum existed. Attending from the Workers' Compensation Court was Bill Wiles, staff attorney, and Tish Sommer, special counsel.

Announcements and Introductions: Two new Advisory Council members, Mr. Curtin and Ms. Edwards, were introduced to the existing members and staff.

Discussion and possible action regarding minutes of the April 9, 2009 regular meeting of the Advisory Council. A motion was made and seconded to approve the minutes from the April 9, 2009 meeting. The motion passed by affirmative vote of all members present.

Review, discussion and possible action regarding interim studies of the legislature affecting Workers' Compensation: Ms. Sommer provided a summary of the interim studies of legislation affecting Workers' Compensation introduced during the current session.

Discussion and possible action with respect to future action by the Council in 2009: The Committee discussed ways of monitoring and providing input into the legislative process.

New Business: There was no new business.

Adjournment: A motion to adjourn the meeting was made, seconded and passed by affirmative vote of all members present. The meeting was adjourned at 2:35 p.m.

Advisory Council on Workers' Compensation

Appointed pursuant to 85 O.S., §112

NOTICE OF MEETING

The Advisory Council on Workers' Compensation
has regularly scheduled a meeting on
November 12, 2009
2:00 p.m.
at the
2nd floor courtroom
Workers' Compensation Court
1915 N. Stiles
Oklahoma City, Oklahoma

AGENDA

1. Call to order.
2. Roll call and determination of quorum present.
3. Announcements and introductions.
4. Discussion and possible action regarding minutes of the September 10, 2009 regular meeting of the Advisory Council.
5. Review, discussion and possible action regarding interim studies of the legislature affecting Workers' Compensation.
6. Discussion and possible action by the Council with respect to future legislation affecting Workers' Compensation
7. Discussion and possible action by the Council regarding privatization of CompSource Oklahoma.
8. Discussion and possible action by the Council with respect to the 2010 meeting schedule.
9. New Business.
10. Adjournment.

MINUTES OF THE ADVISORY COUNCIL ON WORKERS' COMPENSATION

Date: November 12, 2009.

The Advisory Council on Workers' Compensation met as regularly scheduled on November 12, 2009 at 2:00 p.m. in the Judge's Library on the first floor of the Workers' Compensation Court, 1915 North Stiles, Oklahoma City, Oklahoma.

Call To Order: The meeting was called to order on November 12, 2009 at 2:15 p.m. by Advisory Council Chairman, Blake Virgin.

Roll Call and Determination of a Quorum: Members attending the meeting were Mr. Curry, Mr. Curtin, Ms. Edwards, Mr. Simmons, Mr. Virgin. Council members unable to attend were Mr. Carter, Mr. Klubeck, Mr. Zapffe, and Mr. Zearley. It was determined a quorum existed. Attending from the Workers' Compensation Court was Bill Wiles, staff attorney and Tish Sommer, special counsel.

Announcements and Introductions: There were no introductions.

Discussion and possible action regarding minutes of the September 10, 2009 regular meeting of the Advisory Council. A motion was made by Mr. Curry and seconded by Mr. Simmons to approve the minutes from the September 10, 2009 meeting. The motion passed by affirmative vote of all members present.

Review, discussion and possible action regarding interim studies of the legislature affecting Workers' Compensation. Ms. Sommer provided a summary of the interim studies of the legislature.

Discussion and possible action by the Council with respect to future legislation affecting Workers' Compensation. Various areas of change were discussed and it was generally agreed that specific areas of change to the existing system would be more effective than completely abandoning the current system and completely starting over. It was suggested the Council concentrate on specific areas of change. The Council members were asked to provide ideas for specific items of legislation on which the Council could provide recommendations.

Discussion and possible action by the Council regarding privatization of CompSource Oklahoma. The pros and cons and manner of privatizing of CompSource were discussed at length. It was generally agreed the Council should attempt agreement on a resolution on the issue for forwarding to the Council's appointing authorities.

Discussion and possible action by the Council with respect to the 2010 meeting schedule.

Discussion and possible action with respect to future action by the Council in 2009: The following 2010 meeting schedule was agreed upon by the members present: January 14, 2010, February 11, 2010, March 11, 2010, April 8, 2010, May 13, 2010, September 16, 2010, and November 11, 2010. The staff attorney was directed to provide notification to the Secretary of State of the agreed dates.

New Business: There was no new business.

Adjournment: A motion to adjourn the meeting was made, seconded and passed by affirmative vote of all members present. The meeting was adjourned at 3:00 p.m.