



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Human Resources
Department No.: 064
For Agenda Of: February 28, 2023
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Maria Elena De Guevara, Human Resources Director, 568-2804
Director
Contact Info: Joe Pisano, Employee Relations Division Chief, 568-2839
Robert Clark, Employee Relations Manager, 568-2829
SUBJECT: **Workers' Compensation Alternative Dispute Prevention and Resolution
Program Agreement With Deputy Sheriffs' Association**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve the Agreement between the County of Santa Barbara and the Santa Barbara County Deputy Sheriffs' Association which establishes a Workers' Compensation Alternative Dispute Prevention and Resolution Pilot Program (Attachment A).
- b) Determine pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) that the above action is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and therefore is not a project subject to environmental review.

Summary Text:

Workers' Compensation benefits and requirements are provided in the California Labor Code. The standard provisions of the Labor Code often make it difficult to provide prompt treatment of injured workers and return to work, especially when there are disputes over medical treatment. This issue was initially addressed in the construction industry by legislation that allowed labor unions and employers to negotiate alternate processes for handling claims and resolving disputes. Based on the success in the construction industry Labor Code Section 3201.7 was enacted to authorize public entities to enter into these agreements. The alternative process is intended to expedite medical treatment, reduce litigation, and

reduce lost time and overtime coverage due to injuries. The Deputy Sheriffs' Association (DSA) has expressed interest in entering into a Labor-Management Agreement as provided by the Labor Code to achieve these objectives. In response the County met with the DSA and negotiated the attached proposed agreement which provides for implementation of the alternate process as a pilot program similar to the program which has been in place with Firefighters Local 2046 for a little over two years.

Background:

The State Department of Industrial Relations is responsible for oversight of the alternative dispute resolution process. As part of this process they must authorize the union and agency to begin negotiating a Labor-Management Agreement, and they must approve the agreement proposed by the parties. The Department has authorized the County and DSA to negotiate a Labor-Management Agreement. The County is insured for workers' compensation through Public Risk Innovation, Solutions, and Management (PRISM), a joint powers authority under the umbrella of the California State Association of Counties. As required by the Memorandum of Coverage, PRISM's Claims Review Committee has reviewed and cleared the proposed Agreement. PRISM requires that they will review the program annually to validate that the effects are no worse than cost-neutral to the PRISM Workers' Compensation pool.

The proposed agreement establishes a "Joint Committee" which will oversee the agreement. The Joint Committee will consist of three members appointed by the DSA, and three members appointed by the County. One of the County members will be selected by the Sheriff and the two others will be selected by the County Executive Officer (CEO). The Joint Committee will appoint a Director/Mediator to manage the administrative functions, and an Ombudsperson to guide injured workers through the process. The Joint Committee will also approve a list of providers in various medical specialties to which injured employees will be referred for treatment, and a list of medical-legal examiners who will determine eligibility for benefits under State law such as compensability of the injury, future medical treatment, permanent disability, and work restrictions. Disputes will be resolved through mediation and arbitration.

The alternate dispute resolution process does not in any way diminish statutory workers' compensation benefits. It does not preclude injured workers from obtaining legal counsel. Injured workers can appeal arbitration decisions to the Workers' Compensation Appeals Board.

The goal of the alternate dispute resolution process is to provide prompt treatment of injured employees and to make the process more efficient and less adversarial for both employees and employers. Medical treatment under the current statutory process can be delayed when there are disputes over the necessity and appropriateness of treatment modalities. This can cause the injured employee to lose trust in the process, and to seek legal representation. Ultimately medical legal disputes inflate the cost of the injury and increase the amount of overtime needed to cover employees who are off work due to industrial injuries. The proposed alternate process is intended to overcome these problems by having an ombudsperson immediately contact the injured worker to assure appropriate treatment is initiated, and to maintain contact to resolve any issues that arise during treatment. Trusted treating physicians are predesignated, and medical legal examiners agree to provide reports on an expedited timeframe.

The agreement is to remain in effect for at least two years, and then to continue year after year thereafter unless terminated by either party giving 60 days' notice. It will take several years to assess the full benefit of the program. An independent auditor will be retained to assess the financial results of the program.

Performance Measure:

An independent auditor will be retained to assess the financial results of the program.

Contract Renewals and Performance Outcomes: N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other: Prop 172	\$ 100,000.00	\$ 215,000.00	
Total	\$ 100,000.00	\$ 215,000.00	\$ -

Narrative: The estimated cost of the program is \$215,000 per year, which will be funded through the Sheriff's Office budget. The source is a transfer of Proposition 172 Fund Balance. This money will pay to contract for the Director/Mediator and Ombudsperson services.

Key Contract Risks: N/A

Staffing Impacts: N/A

Legal Positions:

FTEs:

Special Instructions: N/A

Attachments:

Attachment A: Proposed Workers' Compensation Alternative Dispute Prevention and Resolution Program Agreement

Authored by: Robert Clark, Employee Relations Manager

cc: Mona Miyasato, County Executive Officer
Rachel Van Mullen, County Counsel
Betsy Schaffer, Auditor-Controller
Bill Brown, Sheriff-Coroner
Greg Milligan, Risk Manager

