



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 4, 2020  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Maria Elena De Guevara, Human Resources Director, 568-2804  
Director(s) 2804  
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 Pilot Program Agreement.**

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve the Agreement between the County of Santa Barbara and the Santa Barbara County Fire Fighters, Inc., Local 2046 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 authorized 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. Fire Fighters Local 2046 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 Firefighters and negotiated the attached proposed agreement which provides for implementation of the alternate process as a pilot program.

**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 Local 2046 to negotiate a Labor-Management Agreement. The Department has approved 56 public sector agreements, mostly since 2014, which include 15 fire agencies. The proposed agreement between the County and Local 2046 is modeled after agreements that have already been approved by the Department of Industrial Relations. The County is insured for workers' compensation through the Excess Insurance Authority of the California State Association of Counties (CSAC-EIA). As required by the Memorandum of Coverage, CSAC-EIA's Claims Review Committee has reviewed and cleared the proposed Agreement. CSAC-EIA states that it will review the program annually to validate that the effects "are no worse than cost-neutral to the EIA pool.

The proposed agreement establishes a "Joint Committee" which will oversee the agreement. The Joint Committee will consist of three members appointed by Local 2046, and three members appointed by the County. One of the County members will be selected by the Fire Chief and the two others will be selected by the Chief Executive Officer. 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 one year, 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 pilot program.

**Fiscal and Facilities Impacts:**

The estimated cost of the program is \$60,000 per year, which will be funded through the existing Fire Department budget. This money will pay to contract for the Director/Mediator and Ombudsperson services.

**Budgeted:** Yes

**Fiscal Analysis:** N/A

**Key Contract Risks:** N/A

**Staffing Impacts:**

**Legal Positions:**  
N/A

**FTEs:**  
N/A

**Special Instructions:**

**Attachments:**

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

**Authored by:** Robert Clark, Employee Relations Manager

**cc:** Mona Miyasato, County Executive Officer  
Michael C. Ghizzoni, County Counsel  
Betsy Schaffer, Auditor-Controller  
Mark A. Hartwig, Fire Chief  
Ray Aromatorio, Risk Manager