



Legislation Text

File #: 07-1173, **Version:** 1

Recommendation to adopt resolutions approving the Memorandum of Understanding with the Long Beach Police Officers Association and Long Beach Firefighters Association, allowing for implementation of a workers' compensation alternative dispute resolution process. (Citywide)

In April 2004, the Governor signed SB 899, the Workers' Compensation Reform Bill, into law. A key provision of SB 899 was the ability given to cities to enter into labor-management agreements for alternative dispute resolution of workers' compensation claims. Prior to SB 899, only the construction industry had the ability to develop labor-management agreements for alternative dispute resolution of workers' compensation claims. The City of Long Beach will be the first city to formally adopt a labor-management agreement under Labor Code Section 3201.7, taking an innovative approach to solve some of the issues affecting both the employees and the City in the current workers' compensation system.

The current workers' compensation claim resolution process, as supported by the State regulations, is filled with delays for both the City and employee. There are currently two pathways for a workers' compensation claim to be resolved under State regulations: non-litigated cases are resolved through a Qualified Medical Examiner (QME) and litigated cases may be resolved using an Agreed Medical Examiner (AME) or a QME. QME's are assigned by the State through a complicated process that allows the employee to choose from a State panel of physicians. The State randomly assigns this panel of physicians by specialty and consideration is not given to the proximity of the employee's home or work location. On average, it currently takes approximately three to five months from the time a QME is requested for the employee and the City to receive a report on the particular issues of the claim. This delay causes many claims to be denied pending receipt of the medical opinion. When a case is litigated, the two parties may agree to use an AME to resolve outstanding issues or use a QME. On average, it currently takes approximately six months or more for an employee to be seen by an AME because of the full calendars of these physicians and three additional months for the City to receive a report on the particular issues of the claim. This type of delay causes claim costs to rise while affecting the morale and care of employees.

In February 2006, the Long Beach Police Officers Association (LBPOA) and Long Beach Firefighters Association (LBFFA) approached City management to discuss many of the problems faced by their membership, which include delay in treatment and benefits. It was decided by City management to research the possibility of entering into a labor-management agreement for alternative dispute resolution in an effort to expedite the process to improve care of employees and reduce longterm costs to the City. In November 2006, the City applied to the State for permission to negotiate a labor-management agreement. In December 2006, permission was granted by the State through the Administrative Director of the Division of Workers' Compensation to begin negotiations with the LBPOA and LBFFA and conclude the negotiations within one-year.

City, LBPOA and LBFFA representatives have held meet and confer sessions over the last six months regarding implementation of a workers' compensation alternative dispute resolution process.

These meetings have resulted in an agreement that provides a new Memorandum of Understanding (MOU) that will provide active LBPOA and LBFFA employees with an expedited procedure to handle disputes, resulting in a one-year pilot program. The agreement includes workers' compensation disputes that arise from questions of causation, nature and extent of injury, nature and extent of permanent disability and apportionment, work restrictions, ability to return to work, and utilization review. The major provisions of the agreement are summarized in Attachment A. The members of the LBPOA and LBFFA have ratified the MOUs.

The City is prepared to enter into contracts with various physicians to serve as Independent Medical Examiners (IME) for this program. The City, the LBPOA, and the LBFFA have agreed on a list of physicians based on their ability to be impartial and on their ability to write thorough reports. A total of 86 physicians were approached in various specialties, with 56 physicians responding that they were interested in participating in the program. The contract will require the IME to complete the process of seeing the employee within 30 days of receiving the request and writing a report 30 days after the exam date.

At the conclusion of the one-year pilot, the City will work with the LBPOA and LBFFA to evaluate the impact of the program, including cost to the City and care of injured employees. If the pilot is successful, staff will recommend an extension of the MOUs and possibly expanding the process to other employee associations.

This matter was reviewed by Deputy City Attorney Christina Checél and Manager of Budget and Performance Management David Wodynski on October 3, 2007.

City Council action is requested on October 9, 2007 to ensure implementation of the MOU provisions by December 1, 2007.

The alternative dispute resolution program is expected to generate savings to the City through decreased litigation and quicker resolution of workers' compensation claims while improving service to our injured employees. The City will evaluate costs of this pilot program at the end of one year. Costs associated with this program are paid through the Insurance Fund (IS390). In Fiscal Year 07, total medical and indemnity costs for Police and Fire totaled \$8.2 million.

Approve recommendation.

LABOR-MANAGEMENT WORKERS' COMPENSATION SUPPLEMENTAL DISPUTE RESOLUTION AGREEMENT BETWEEN CITY OF LONG BEACH AND LONG BEACH POLICE OFFICERS' ASSOCIATION

and

LABOR-MANAGEMENT WORKERS' COMPENSATION SUPPLEMENTAL DISPUTE RESOLUTION AGREEMENT BETWEEN CITY OF LONG BEACH AND LONG BEACH FIREFIGHTERS' ASSOCIATION

SUZANNE R. MASON

DIRECTOR OF HUMAN RESOURCES

NAME
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APPROVED:

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