

ILLINOIS LABOR ADVISORY BOARD MEETING
MEETING MINUTES
April 8, 2013
1:00 pm

Board Member Attendance: Maria Bocanegra, Roberto Carmona, Brian Glynn, Heather Goines, Ralph Graham, Mark Guethle, Tina Harbin, Marc Poulos, Jorge Ramirez, Larry Swope.

Illinois Department of Labor (IDOL) Staff Attendance: Joe Costigan, Lilian Jimenez, Doris Moy, Ron Willis.

The meeting was called to order at 1:15 p.m. by Joe Costigan.

I. Organization of the Board

Ron Willis provided a brief overview of the organization of the Labor Advisory Board (LAB). The Board is subject to all rules that would affect any public board. Board members have certain obligations, such as ethics training, which would be discussed later in the meeting. LAB meetings are subject to the Open Meetings Act and minutes of the meeting must be taken and open to public review. Although the LAB is an advisory board, it can take formal positions. The formal positions are not binding decisions and notice of any formal decisions made by the Board must be given to the public.

He also presented for the Board's consideration, nine rules proposed by the Department for governing the affairs of the Board. The rules would provide the structure for how future LAB meetings will be conducted.

A question was raised as to what is quorum. The board is a 13 member board. A quorum of the Board is seven members. When a bare quorum is present, a majority of the quorum is four members. A meeting under the Open Meetings Act is defined as a gathering of a majority of a quorum for the purpose of discussing business and that number would be four. Thus if four or more members got together for the purpose of discussing business that gathering would be subject to the Open Meetings Act.

A motion was made by Marc Poulos and seconded by Mark Guethle to nominate Jorge Ramirez as Chair of the Labor Advisory Board. The motion was passed.

A motion was made by Jorge Ramirez and seconded by Marc Poulos to nominate Ralph Graham as Vice-Chair of the Labor Advisory Board. The motion was passed.

Upon motion by Marc Poulos and seconded by Mark Guethle and Maria Bocanegra, the Board voted to adopt the nine point proposed rules for the Labor Advisory Board.

II. Meeting Calendar and Planning

The meeting schedule for the remainder of the calendar year was presented. The dates are: Thursday, September 19, 2013 at 1:00 pm and Monday, December 9, 2013 at 1:00 pm. The locations of the meetings are to be determined and members will be notified of exact locations in the future.

III. IDOL Overview

Joe Costigan gave an overview of the Illinois Department of Labor. The Department's mission is to promote and protect the rights, wages, welfare, working conditions, safety and health of Illinois workers through enforcement of the Department's more than 25 labor laws.

IDOL is divided into seven Divisions: Fair Labor Standards, Conciliation and Mediation, Safety Inspection and Education, Equal Opportunity Workforce, Carnival and Amusement Ride Safety, Legal and Administration with three offices located in Chicago, Springfield and Marion.

Year 2012 was the 95th year that IDOL has been in business. The Department has significantly transformed itself since it was first established but the underlying principles of the Department have remained intact today.

The Department has 95 employees and an annual budget of \$11.5 million, of which \$6 million is General Revenue Funds. The level of General Revenue Funds received by IDOL has principally been the same as it was in the 1990s without any significant increases, and this has been challenging for the agency.

Wage theft and misclassification of workers are also challenges and issues confronting the Department that affect not only workers, but business owners who play by the rules. Misclassification results in a competitive disadvantage for these business owners. There was further discussion on the scope of wage theft. There are certain industries where wage theft is more prevalent, such as low-wage industries and the service sector, but it happens everywhere. According to a University of Illinois at Chicago report, \$1 million in wages is lost per day due to wage theft. Misclassification of workers as independent contractors is a problem in the construction industry, but is also prevalent in other industries and has a tremendous impact on the state, employees and employers.

To combat misclassification, IDOL meets regularly with the Illinois Department of Employment Security, Illinois Department of Revenue, Illinois Workers' Compensation Commission and US Department of Labor to join enforcement efforts as part of a task force on misclassification.

"Change" has been the operative word at the Department. IDOL has been introducing new processes, streamlining systems and developing ways to improve on delivery of services and

make the Department more accessible to workers and businesses seeking assistance. Some examples include adding language capabilities to the IDOL website, accessibility to online filing of claims and applications, online payment options and streamlining complaint forms, i.e., combining Minimum Wage Law and Wage Payment and Collection Act claims on one complaint form. The Department is also reexamining internal case management systems, beginning with the prevailing wage and fair labor standards case management systems and working towards making IDOL an example of the Governor's "go green" initiative by way of paperless systems.

Lilian Jimenez added that the Department has instituted a group claims/multiple claims approach as a way to process the high volume of claims that are filed with IDOL. Annually, the Department receives more than 8000 wage claims in the Fair Labor Standards Division. If there are multiple claims against one employer, the Department will group the claims, send one notice to the employer, receive one employer response and schedule one hearing, rather than sending multiple notices to the same employer, receiving multiple responses and holding multiple hearings.

IV. Legislative Agenda

Joe Costigan reported on the Department's legislative agenda.

SB2184: Amends the Carnival & Amusement Rides Safety Act. Creates a dedicated fund so that all fees and penalties received by the Department under the Act will be used by the Department to carry out its powers and duties under the Act.

HB2649: Amends the Employee Classification Act. Provides for formal administrative hearings by the Department and provides for individual officers and agents of employers to be liable under the Act.

Joe Costigan then discussed that an increase in the minimum wage was being discussed within the legislature and that he hoped that included within any bill would be penalties for the failure to keep records.

With regard to enforcement of the Minimum Wage Law, IDOL is concerned about the Department's ability to obtain time and payroll records during investigations. The Minimum Wage Law states that employers must keep time and payroll records, but there is no fine or penalty in the law for not having records. The law provides for jail time for recordkeeping violations, but only if a prosecutor can be found who will prosecute for not keeping records. IDOL has taken a new approach to this problem through its enforcement of the One Day Rest in Seven Act (ODRISA). ODRISA includes recordkeeping requirements and allows fines for employers who do not comply. If an employer does not keep records under the Minimum Wage Law, the employer is also not keeping records under ODRISA and subject to fines of \$25

to \$100 per incident or violation. There is a separate violation for each employee for whom records are not kept.

HB2562: Amends the Personnel Records Review Act to provide penalties to employers who fail to comply with the Act.

SB1568: Amends the Illinois Wage Payment & Collection Act to authorize the Department to conduct formal administrative hearings on claims regardless of the claim amount (currently the Department holds formal hearings on claims of \$3,000 or less. The Bill also increases the administrative fee to \$500 on claims up to \$10,000 and up to \$1000 fee on claims above \$10,000.

V. Forums and Public Participation

Joe Costigan stated that the Department looks to the Board as a sounding place for ideas and issues that the Board wants to bring to the Department. It can be a forum that brings together university people, community groups and worker and business groups to talk about all aspects in which the Department is involved. For example, there could be dynamic discussion about issues being faced in the community, the impact of an increased minimum wage or changes in the Employee Classification Act.

Tina Harbin commented that as a business owner in the construction arena, a major problem is getting paid from the general contractor and the problem forces business owners to be creative as to how to pay their employees. Even when business owners have a line of credit, the credit is not endless. She further commented that this is a problem that needs some type of legislation or something that forces general contractors to pay subcontractors. Marc Poulos commented that the Private Prompt Pay Act and the State Prompt Pay Act address this issue. He also added that the Illinois Department of Transportation (Senator Mattie Hunter) has a bill right now that will establish a revolving loan fund that will be available to contractors.

VI. Board Obligations

Board members will receive ethics training materials in the mail to complete. IDOL will inform members by email of the due date for filing their Statements of Economic Interests with the Secretary of State. Also, to obtain information about Open Meetings Act Certification, members should log on to http://foia.ilattorneygeneral.net/electronic_foia_training.aspx. Lastly, any members wishing to submit travel vouchers for travel reimbursement should send the vouchers to the attention of Joe Costigan at Illinois Department of Labor to be processed.

VII. New Business

Jorge Ramirez commented that it would be good for the Labor Advisory Board to issue some type of report that would be helpful to IDOL, legislators or elected officials in showing what is going on at the Department, issues that have come up and recommendations on legislation that would address some of the issues. The report could be used as a legislative guide on key issues upon which legislators could act and would serve to let legislators know the LAB's position on issues. The report might be one basic report with a series of updates and done in a way that is timely to the legislative calendar.

There was also discussion on creating a "drop box" for LAB Meeting minutes and other LAB-related materials.

VIII. Adjournment

The next meeting of the LAB is scheduled for Thursday, September 19, 2013 at 1:00 pm in Chicago, IL (Location TBD).

There being no further business to come before the Board, upon Motion made and seconded the meeting adjourned at 3:00 pm.