

**DIVISION OF INDUSTRIAL RELATIONS ADVISORY COUNCIL**  
**Minutes of the Meeting, Wednesday, July 14,2021**

**1. Call to Order and Roll Call**

At 10:00 a.m. on July 14, 2021, the meeting of the Advisory Council for the Division of Industrial Relations (DIR) via videoconference between Las Vegas DIR and Carson City DIR office was called to order by chairman Paul McKenzie. Roll Call was called by Amanda Guimont.

Council members present in the Las Vegas office were Rusty McAllister and William Stanley. Paul McKenzie was present in the Carson City office. Ian Langtry and William Spiegel attended via WebEx. It was determined a quorum was present.

DIR staff present at the Las Vegas Office were Victoria Carreon, Chuck Verre, Brennan Paterson, Todd Schultz, Donald C. Smith and Amanda Guimont. Jeff Bixler was present in the Carson City office. Perry Faigin, Nick LaFronz, Jacob La France and Jimmy Andrews attended via WebEx. Karissa Neff from the Attorney's General's Office was also present at the Las Vegas office.

**2. Public Comment** on items to which actions may be taken

No items for public comment were raised.

**3. Approval of Minutes of Previous Meeting – April 07 ,2021.** Bill Stanley made a motion to approve the minutes of the April 07,2021 meeting as presented. Raymond McAllister seconded the motion. The motion was approved unanimously.

**4. Status of review of outstanding debt referred to Controller's Office**

Victoria Carreón, Administrator, provided a status of the outstanding debt being reviewed by the Controller's Office. The Controller's Office would like to do write off's once per year, so a list of debts for write off will be presented at the meeting in January. The Controller's Office is still analyzing the write-offs forwarded to them by the Department of Business and Industry Fiscal office in April 2021. There were differences between how the Fiscal office and the Controller's Office were tracking the debt that need to be resolved. The amount will be higher than in past years because old debt was not consistently being written off in the past.

**5. Legislation Update (Don Smith)**

- a) AB 249- Construction Start times. Revision to NRS Chapter 116, which prohibits common interest communities from adopting more prohibitive restrictions than the local jurisdiction for when construction can start.
- b) AB 482 - Suspension of business licenses for companies that have debt referred to the Controller's Office. Don Smith thanked Raymond McAllister for assisting with passing this bill.
- c) SB55 – Transfer of employee leasing companies to the Labor Commissioner. Mr. Stanley stated that it made sense to place this oversight under the Labor Commissioner to ensure that employees are truly employees, and that Workers' Compensation is truly being covered.
- d) SB122 – Requiring OSHA 10/30 cards for the cannabis industry, effective on July 1, 2021.
- e) SB205 – Regulatory exemptions for certain types of boilers. This bill exempts single tankless water heaters from regulation, which will require additional regulations and creates issues for the division. Brennan Paterson explained that the concern is that many of these units are

being combined in rack systems. Victoria Carreon clarified that we won't be able to regulate the water heaters, but we can regulate the connections between them and to other things.

- f) SB289 – Amends NRS by adding provisions on apportioning Partial Permanent Disability (PPD) ratings; authorizing service of acceptance/denial determination by electronic means; authorizing recovery of claimant's attorney's fees and costs; and requiring payment of PPD installment payments if claimant makes no election.
- g) SB295 – There are police officers and fire fighters that end up with statutory Permanent Total Disability because they are unable to perform their current positions. They can now be employed and not lose their Permanent Total Disability benefits.

#### **6. Regulations Update (Don Smith)**

- a) R053-20P – Heat Illness. Currently we are reworking this regulation based on a discussion we had and information we received at the Adoption Hearing. Victoria Carreon discussed that other options are being considered that will make it easier for employers to implement the standards.
- b) R069-20P – OSHA cleanup regulation. It has a number of requirements. It was filed with the LCB in June of last year. We got it back in January. We workshopped it and we have sent in proposed revised language to the LCB. We are not going to have a hearing on this one until we have revised language back from the legislative counsel.
- c) R044-20RP1 – Medical Workplace Violence. We workshopped it in March of 2021, and based on the comments we received at that time we have revised it and forwarded it to LCB. This grew out of legislation from the 2019 session.
- d) R134-20 – Workers' Compensation. Originally sent to the Legislative Counsel Bureau on July 6 and got it back on July 9, one year later. It is something that we have not internally had an opportunity to analyze or see whether it reflects our intentions.
- e) R048-20I – OSHA 10/30 Training requirements for construction, entertainment industries and convention services has been out, approved and adopted as of January 2021.

#### **7. Review and comments on OSHA quarterly complaint report.**

Victoria introduced Nick LaFronz as Southern OSHA'S District Manager and Jacob La France as Northern OSHA'S District Manager. Victoria Informed attendees that both are attending virtually and available for any questions. Paul McKenzie asked if OSHA ever reaches out to other jurisdictions when complaints apply to OSHA but also apply to another jurisdiction? Jacob La France informed attendees that in general they do their best to communicate with other agencies if they believe they have some overlap or can address an issue we cannot.

#### **8. Review of OSHA quarterly report on violations**

Victoria informed the Advisory Council that this is the required report on general duty citations, and that Nick LaFronz and Jacob La France are available to answer any questions. There were no questions.

#### **9. 9. Worker safety issues for the underground tunneling project for the Encore, Convention Center, Resorts World and 28-mile loop on Las Vegas Blvd.**

Nick LaFronz informed attendees that right now based on the most recent check, OSHA does not have any active complaints or inspections for the underground tunneling project. A pre-

construction meeting with the contractor was performed in May, 2021. They discussed the contents of the pre-construction notification, and it was a productive discussion. William Stanley read that they would use the excavated materials in the pre-casting of the inner tunnel lining. This would make it a mining operation, and not an OSHA operation. Bill Stanley would like to know if it would be regulated by OSHA or MSHA. Nick LaFronz stated that it's something that we can get some information about and get clarification on who would have authority on the project. Bill Stanley voiced his concern about what standard they are going to be constructed under, as this would change requirements for personal protective equipment and rescue plans. Paul McKenzie questioned if the county has not approved the project, then how did we have a pre-construction meeting. Nick LaFronz stated he cannot speak on the county approval. As far as the pre-construction meeting goes, it is something that is handled at the OSHA level around the time project is starting or us being notified of the project to be scheduled. Paul McKenzie recommends that we get clarification if they are going to reuse material out of that and if that is the case, they need to apply for a mining permit. Jeff Bixler stated that he would reach out to Federal MSHA. Ian Langtry stated that there is a Federal OSHA and MSHA Memorandum of Understanding (MOU) that is used to determine jurisdiction. It covers specifically whether materials are pulled out of the ground and how they are utilized and whether the project is still under OSHA's jurisdiction. Don Smith asked Ian Langtry to share the MOU with him and Don Smith agreed to distribute it to members of the board.

**10. Certification requirements of Elevator Constructors, Mechanics, Apprentices, and helpers.**

Brennan Paterson, Chief Administrator Officer of the Mechanical Compliance Section went over Nevada Administrative Code 455C, which requires that anybody who installs, constructs, alters or repairs an elevator must be certified as an elevator mechanic. Elevator mechanics may be assisted by elevator mechanic apprentices or helpers. Brennan Paterson went over the requirements to obtain a certification for elevator mechanics and work cards for apprentices and helpers. William Stanley thanked Brennan Paterson for the meetings and his work on this.

**11. Agenda items for next scheduled meeting.**

- a) Report from OSHA on the underground tunneling project for the Encore, Convention Center, Resorts World and 28-mile loop on Las Vegas Blvd.
- b) Report from the Division on the status of the heat stress regulation
- c) Report from the Division on the status of regulations on certification requirements to do construction and alterations on an elevator.

**12. Discussion on possible investigations or studies to be conducted.**

None

**13. Public Comment**

No Comment

**14. Adjournment**

Motion to adjourn at 11:00AM by Bill Stanley and seconded by Rusty McAllister.