

**ILLINOIS LABOR ADVISORY BOARD MEETING
MEETING MINUTES
THURSDAY, SEPTEMBER 19th, 2013
1:00 pm**

Board Member Attendance: Kim Bobo, Maria Bocanegra, Roberto Carmona, Brian Glynn, Heather Goines, Ralph Graham, Tina Harbin, Bruce Holland, Marc Poulos, Jorge Ramirez.

Illinois Department of Labor (IDOL) Staff Attendance: Joe Costigan, Rosaelia Garcia, Lilian Jimenez, Jim Preckwinkle, Tumia Romero, Ron Willis.

Guest: Princess Dempsey, Dempsey Staffing

I. Call to Order

The Meeting was called to order at 1:15pm by Jorge Ramirez, Chairperson of the Labor Advisory Board.

II. Welcome – Introduction

Jorge Ramirez welcomed everyone to the LAB meeting and asked all in attendance to introduce themselves.

III. Approval of Minutes from April 8th Meeting

A motion was made by Jorge Ramirez and seconded by Ralph Graham to approve the Minutes from the April 8th, 2013 meeting. The motion was passed.

IV. Old Business

Joseph Costigan, Director of the Illinois Department of Labor (IDOL), commented about the issue of creating the “drop box” on the IDOL website for the Labor Advisory Board (LAB) meeting minutes and other LAB related materials. He stated that the Department and IT are working to make it possible.

V. Director Comments

- Budget Overview

Director, Joseph Costigan discussed the Budget Overview for the Illinois Department of Labor for Fiscal Year 2014. The Illinois Department of Labor had a busy spring this year and numerous issues involving the Department came up in this past General Assembly. He stated the budget process is a very difficult process for an agency with such a very large mission. The Illinois Department of Labor is a small agency but we have a mission in which we have 25 different labor laws to enforce.

Almost half of our budget comes from two Federal Safety grant programs from the US Department of Labor. The Department provides Safety Enforcement on the public sector side and the Safety Consultation on the private sector side. These Safety Grants total \$5 million that the Department gets from the Federal Government.

The remainder of the Department's Budget comes from the State Legislation. The remaining totals \$6.7 million dollars appropriation from the General Revenue fund. The Department also operates out of "Other State Funds". This includes Child/Day and Temporary Labor fines, fees and penalties totaling \$607,000. The Department receives from the enforcement of the Employee Classification fund a law that went into effect in 2008 this totals \$137,000. Lastly, we have a fund where we collect \$250 dollars per Wage Theft case. These cases go to trial and go to an administrative hearing. If the Department finds the employer owes money to the worker a \$250 dollar administrative fee is received by the Department. This provision of the Wage Payment and Collection Act has been in effect since 2012. The Department has collected \$148,000 under the Wage Theft Fund.

The IDOL Fair Labor Standard department is aggressively working to ensure workers are properly paid. The Department receives about 30 cases per day. The Department does investigations with a very small staff. The Department has nine auditors to Audit Minimum Wage cases State wide and has five investigators that work on Wages Theft cases. The Department put together a very aggressive program to be more responsive. The results of the Wage Theft Fund of \$148,000 coming in at \$250 dollars in fees one at a time says a lot about our department. The Department spends 90% of moneys received from General Revenue as Personal Services. In notwithstanding the budget constraints the Department will be hiring more enforcement staff to take on the day to day challenges.

- **FY 13- Review**

Director Joseph Costigan gave a brief overview on the graph titled "Illinois Department of Labor- Wages Collected". All monies described on the graph are in Millions of Dollars. The Department collected almost \$8 million dollars of monies which goes back to workers. In the Fiscal Year 2012 Prevailing Wage Collection went from \$1.58 to \$1.60 in Fiscal Year 2013. The Minimum Wage/Overtime in Fiscal Year 2012 went from \$1.59 to \$2.00 in Fiscal Year 2013. The Wage Payment and Collection Act increased by 35% from FY2012 \$1.85 collected to FY2013 \$3.03 in wage theft collected in Illinois.

- **Department Initiatives**

Jorge Ramirez, Chair of the Labor Advisory Board asked if we can project how abrasive these problems really are. He posed a question of what if the Department had unlimited money to go pursue wage losses, is there any estimate of what could be recovered. He mentioned he read that in Cook County alone there is about \$1 million a week of loss/stolen wages.

Kim Bobo, member of the Labor Advisory Board commented that nobody really knows the hard numbers but if the department had more resources obviously they can collect more. According to the Kim Bobo everywhere you turn either in the city or in the state there is Wage Theft.

Ron Willis, General Counsel, Illinois Department of Labor (IDOL), stated that Wage Theft is no longer just upfront not paying your wages. In the Prevailing Wage area, contractors have employees wait by the bank and demands return of moneys paid and the employees are afraid to come forward because they are afraid to lose their job. A recent example, a contractor wrote on the pay envelope, "you owe me \$500 dollars out of your paycheck". In one case an employer is under indictment for demanding kick backs from his employees.

Ron Willis also commented on another case, where a restaurant owner wrote everyone a check, deposited it back in their account and paid their employees cash. The employer paid the employees in cash half of what they should have been paid. In this example, the owner received the tax write-off and the people got paid half of their wages. After further investigation, they asked the employer for all the checks with endorsements and none of the checks were endorsed by the workers. Obviously, the checks were just written and deposited back into the employers account. There is no way to measure this type of Wage Theft.

Chairman, Jorge Ramirez, added, another company, a huge meat-packing and processing plant where employers were shorting employees \$1.00 an hour the first week then \$.05 cents an hour off on the next week and \$.02 cents the following week and so on. In this case, the total was up to \$17 million after one year of Wage theft. After the investigation they found out that the payroll department was programming the computer system to pay the employees this way in an algorithm formula. This incident happen about 12 or 14 years ago.

Legal Counsel, Ron Willis commented that Wage Theft no longer involves just wages but includes bonuses or commissions. For example, in a case with a law firm, an employee would receive a bonus after 6 months. The law firm would fire an employee shortly before 6 months passed so they would never have to pay the employee a bonus.

Director Costigan commented that the Department is located in downtown Chicago and relies on community groups, unions and other organizations to report to us what is really happening with Wage Theft.

Lilian Jimenez, Fair Labor Safety (FLS) Division Manager of the Illinois Department of Labor, commented that some of the Mid-size businesses are shutting down and not paying their employees their bonuses or vacations. Employees working in these companies for 30 years are not getting paid vacation or wages. Since our last LAB meeting the Department has had success with consolidating the process with one larger hearing. According to Lilian Jimenez, the FLS section is trying to streamline the process to hold one large hearing rather than multiple hearings over individual cases. In one case in a larger hearing with 100 workers, the Department was able to release checks to the employees. If a company is shutting down we try to go upfront to get these companies to resolve the issues quickly.

Board member, Kim Bobo had a question for Lilian Jimenez on the Wage payment & Collection Act. She commented that it went from \$1.85 to \$3.03 in FY 2013. Lilian Jimenez reported that the process of an initial investigation is important and trying to collect as much information upfront with a more intense investigation. Currently, the Department sends certified letters out to multiple addresses instead of just sending the letters to a closed business. The claims are very critical in the first 90 days; those claims are most likely to be paid. It is very important to get to the employer in the first 90 days. The Departments quicker responses to cases are bringing about positive and better results.

Director Costigan said the Department of Labor receives phone calls from people who are not getting paid. We have decided to use every avenue to try to resolve these issues. The word on the street is that the Department of Labor is more aggressively pursuing these cases. It is important to use every

avenue. The Department's goal is to have businesses to compete on a basis of good business. Efficiency and compliance with the law are paramount. The Department wants to tell the legislators that our agency is not large but achieves with positive results above its means.

Board member, Ralph Graham, commended Joseph Costigan on the numbers and the budget information. He asked if the Department of Labor can break down the report by county or zip code so he can see his area of Illinois which is Southern Illinois. Joseph Costigan replied he will have his IT Department look into the possibilities to have this graph segmented by zip code, county or region.

Chairman, Jorge Ramirez asked if the Department of Labor does any type of reporting to the Legislative leadership or the Governor on a yearly basis. This reporting will help in the efforts to communicate to the Legislative combined with the funding to allow us to help in the Wage Theft area. Director Costigan responded that the Department of Labor does a year- end report on the IDOL website. In the past, the department put a booklet together with all the numbers and how it affects other departments. The Department is attempting how to tell the best story highlighting all its efforts. Kim Bobo suggested that this should be the job of this committee. Director Costigan stated the Department goes in front of the Legislature every year and putting a story out there is very important. Director Costigan commented that the Department is working on a high-tech website to allow employees to go on the internet to file a claim. This is only one of the solutions but the Department needs to continue to do the Outreach in the Community. Ralph Graham suggested having a business card with the IDOL website information to move forward that includes all the information for the employee. The business card should include the website, contact information and phone number. Director Costigan agreed that these are all great ideas because we are trying to create a website that everything is online so that the process goes faster. He added that if the workers are working they should be paid for the job. Wage theft is a systematic problem all across the county and it is a huge issue.

Marc Poulos commented on the Wages graph looking at Prevailing Wages \$1.60 million, Minimum Wage \$2 million and Wage Payment and Collection Act \$3.3 million all for FY2013. He said the Department should look at the numbers and see what the return on investment to the State is in terms of Unemployment, Worker's Comp., and Tax Revenue etc. According to Marc Poulos at the end of the day these are real numbers. The Department should be looking at the numbers and say \$3 million can be returned back to the State and with these types of numbers the legislators should start viewing IDOL a little differently. It is important to break down numbers even further to show a real return on investment. Overall, in your budget you earn 25% return in your investment. What other Department with the state can prove that they return 25% back to their own budget it is a good selling point.

Kim Bobo asked the committee if it would it be possible to host some hearings on Wage Theft. The hearing can be aimed at multiple audiences like the legislators, the general public and the media. She has worked on a couple of committees that have hosted hearings which is not difficult and this could get huge Press. Ralph Graham agreed because it will serve a two-fold not only serving notice to the public but also it will serve some notice in Southern Illinois that the Department of Labor is here and ready.

Tumia Romero, Assistant Director of IDOL commented that the Department has an Outreach Workshop setup for Saturday, September 28th in Springfield, Illinois. The Department is planning Chicago Labor

Summits across the state. The Department is going to Chicago, Peoria, Aurora, Rockford and Springfield. Marc Poulos, Board suggested asking the Chamber to join in as a partner in the discussion with the Chicago Labor summits. Tumia Romero stated that the Department has had conversations with University of Illinois regarding the Public/Civic Engagement Institute in assigning a few people to work in the department on the report we are thinking about.

Kim Bobo asked if the report should be issued by the committee as oppose to the IDOL staff. If the committee issued the report we should be advocates for the Department of Labor and request additional funding. Jorge Ramirez, chairman agreed and it is the responsibility of the board to discuss these types of topics. He added as board members if you have ideas please get those proposals or ideas to us before the next board meeting. Roberto Carmona, member of the Labor Advisory Board stated that we have a built in support from the senators who nominated the commissioners and it just another set of stakeholders.

VI. New Business

- **Board Topics**

Kim Bobo had three Board Topic updates:

The first one is with the Interfaith Committee and Chicago Lawyers Committee of Civil rights in putting together a Wage Theft clinic. They are working with the Department of Labor closely and workers who are not being served either by the Workers Centers or do not have the best set of unions.

The second topic is with AmeriCorps and AmeriCorps VISTA which are two different programs. Is there a way to get a commitment from either AmeriCorps or AmeriCorps VISTA to put out an update to the workers centers in the Chicago-land area and some of the agencies downstate that can help with the worker's outreach program to help with the Illinois Department of Labor? It is a way of another government source to help extend the outreach possibilities and the Department of Labor. This could be a model for Illinois and for the country. AmeriCorps or AmeriCorps-VISTA is doing only nominal work for worker's rights in this country; they could be helping eliminate poverty and helping low wage workers. Director Costigan added to the discussion on working on a model here in Chicago to advocate for Worker's Center to duplicate the model then move it down south. Funding can be provided here in Chicago and we can go down south.

The third topic involved a development whereby companies are paying people with debit cards. The first problem is shifting the cost of payroll from the employer to the employee. The workers are not getting a paycheck they are getting debit cards. The employees have to pay a FEE for checking their balance, not using the card, and withdrawals. The second problem with this is if you have an employer who is not getting paid correctly it is easier to hide improper payments to the employee. An unethical employer can use this as another way to hide how they are stealing wages from workers. Debit Cards makes it more difficult for workers to understand their paycheck. The Illinois Department of Labor has taken the lead and issuing some guidelines on this issue. The challenge is to get the word out on this issue. The Consumer Financial Protection Bureau just issued some new guidelines on these debit cards.

It is another way to hide the way employees are getting paid. It is a huge problem with retail and moving fast and widespread.

Ron Willis, Board member stated paying employees by debit cards has become very popular in retail such as a fast food chain. The law of Illinois is very clear you must be paid on a check without any fees.

Another issue raised involved the Green Dot card. The Greed Dot Company is going up to employers to use the Green Dot for free but the employees are not receiving a check stub. The staffing companies should be educated on how these debit cards work. Anyone can get this Green Dot cards at any Walgreens and you can have direct deposit into your account.

Director Costigan added that the Department of Labor is reaching out to the community and trying to make them understand what is happening. Employees need to be educated about the debit card and their rights. Ralph Graham, Board member added and said that it is going on right now with one of his largest contractors and his reason was because that is what they do in Texas.

Marc Poulos asked if this is the same situation as Direct Deposit like 20 years ago and suggested if the Department needs to be sensitive to the fact there might be people who go to the Currency Exchange because they do not have a checking account and they are taken advantage of cashing a check. These employees pay large fees to their get money and may voluntarily choose to use a payroll card.

Ron Willis stated that IDOL has added the debit card information to the IDOL Website and employers have four conditions they have to meet: 1) It is voluntary 2) the employee has to sign an authorization and can cancel at anytime 3) The employee has to be provided with a written check stub and 4) there cannot be any fees if the employee wants to withdrawal money from an ATM. Most of the employers think they do not have to issue a paystub because they are using a debit card. This is critical so that an employee can see how much they are getting paid.

VII. Legislative Report

Director Costigan introduced Jim Preckwinkle IDOL's new Legislative Liaison Director who comes from the Department of Unemployment and he understands labor issues. We are very fortunate to have him step in during the middle of the Legislative session. We went before the Legislators with a very aggressive agenda and with his guidance we able to make it through.

Jim Preckwinkle gave an overview of the Legislative session. Most of the bills passed did not have an adverse affect on the agency or how the agency operates. Jim Preckwinkle pointed out the positives legislation in which the Department was successful in passing.

Director Costigan commented that the Department passed the Employee Classification Act, which addresses issues in the construction industry. Misclassification has three victims, the first one is the workers because they have to pay their taxes and their social security along Freight taxes of both the employer's and employee' side. The second victim is the business who they are trying to compete. Finally, the state loses out because of Worker's Compensation in Social Security and state taxes. The

Department is cooperatively working with US Federal Government and the IDES and other state agencies to address this issue.

VIII. Legal Report

Ron Willis gave a brief overview of two cases before the Supreme Court one challenging an interpretation of the Prevailing Wage Act and other challenging the Employment Classification Act. Roberto Carmona asked if the Department is working with US Dept of Labor and if the Director is coming to Chicago. Director Costigan commented and stated that the Department is trying to get him to Illinois but it is in the works.

Roberto Carmona commented if we do get the date with US Dept of Labor to come to Illinois he suggested the date be aligned with the December meeting. Jorge Ramirez agreed it is the right idea.

Kim Bobo suggested to possibly having the Public Hearing on Wage Theft around the December 9th meeting. Director Costigan said he will have an internal discussion and will get back to the members. Jorge Ramirez, chairman commented if we have ideas please come forward before the next meeting in December.

Meeting was adjourned at 2:41 pm by Jorge Ramirez, Chairperson of the Labor Advisory Board.