

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Friday, April 4, 2014 – 8:30 a.m.

Present:	David M. Parker	Chairman
	Susan Strickler	Vice Chair
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Melinda Poppe	Chief Administrative Law Judge
	Rosanne Oropeza	Acting Human Resources Manager
	William Warren	Director, ADOSH
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 8:36 a.m. noting a quorum present. Also in attendance at 11:35 a.m. were Scot Butler, the Commission's lobbyist; Stephanie Coulter of The Cavanagh Law Firm; Jeff Horner of General Dynamics; and Jackson Moll from the HomeBuilders' Association of Central Arizona.

Executive Session under A.R.S. § 38-431.03(A)(1), (A)(2), and (A)(3) to Interview and Discuss Candidates for the Position of Administrative Law Judge

8:30 a.m. – 11:15 a.m. (approximately) Interview candidates

The Commission unanimously voted to go into Executive Session to interview and discuss candidates for the position of administrative law judge on motion of Ms. Strickler, second of Ms. Oster. Executive Session Minutes are kept separately.

Discussion and/or Action regarding the consideration of candidates, salary, and appointment of Chief Administrative Law Judge(s). The Commission may vote to discuss this matter in executive session pursuant to A.R.S. §38-431.03(A)(1), (A)(2), and (A)(3). A list of the names of the candidates may be reviewed in the Office of the Director by contacting the Commission's Executive Secretary. The Commission may defer a decision on this matter to a later date

After interviewing the applicants, a brief recess, and upon return to General Session at 11:35 a.m., the Commission considered the following agenda items and agreed to return to this item at the end of the meeting.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4)

to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation

Ms. McGrory advised that she had a short meeting with Connie Wilhelm and Jackson Moll from the HomeBuilders' Association of Central Arizona yesterday afternoon and they provided a working draft of an amendment to SB 1307 that is intended to address the potential that Federal OSHA rejects the state plan supplement regarding residential fall protection. She introduced Mr. Moll and stated he is here today to talk about the working draft.

Mr. Moll provided an overview of the activities the Association has undertaken since receiving a copy of the March 19, 2014 letter from Federal OSHA. He summarized their efforts with the Arizona Congressional delegation and SB 1307 which is intended to address a number of the concerns that Federal OSHA has relayed relative to the Arizona residential fall protection standard. Mr. Moll stated that the solution that they have crafted is an amendment in which the general concept is that it would provide for a conditional repeal of the entirety of the Arizona residential fall protection statutes in the event that there is a final decision from Federal OSHA which is published in the Federal Register indicating that the state initiated plan change is not an approved part of Arizona's approved state plan. They are still revising the language in the draft amendment and trying to be as prepared as possible to get this introduced and move through the process.

Mr. Parker asked what involvement the residential construction industry has had as far as stakeholders input, do they know about this? Mr. Moll stated that the process they went through in terms of notifying people was meeting with the key legislative interests, the Governor's Office, and the Industrial Commission. The information was also sent out to other stakeholders that have been actively involved in these discussions. Ms. Oster asked Mr. Hammock his opinion, if he thinks this is something that would satisfy Federal OSHA. Mr. Wade stated this should be addressed in Executive Session. Ms. McGrory stated that as of this morning this proposal has been widely disseminated and it is her understanding that some of the stakeholders are starting to reach out to Federal OSHA. She stated that her expectation is that we will end up having that conversation with them this afternoon or Monday. With respect to this proposal, what is happening is fairly consistent with the request that the Commission made to Federal OSHA to bifurcate the proceedings. We have asked them to first consider action on the state plan supplement and to not address any other issue of the state plan until they do that. We do not know at this point what Federal OSHA's reaction will be, but we will have that discussion with them and this kind of serves the objective of what we would like to accomplish, which is to focus on the state plan supplement first. Mr. Sanders stated that he appreciated the HomeBuilders' Association attending the meeting and sharing their perspective - it is very helpful. Mr. Parker stated he also appreciated Mr. Moll coming in and that the conditional repeal amendment is a very innovative solution. Mr. Moll stated that this would provide clarity to address the circumstance. Mr. Parker asked Mr. Moll if he has any feedback from the legislature and Governor's office whether this is something they are comfortable with. Mr. Moll stated they have briefed Senator Biggs, the Governor's Office, and a few other legislators and while he cannot speak for them, his understanding is that they are comfortable with this approach.

The Commission unanimously voted to go into Executive Session on motion of Mr. Sanders, second of Ms. Strickler. Executive Session Minutes are kept separately.

Upon return to General Session, Chairman Parker stated that the conditional repeal amendment appears to be a potentially positive step and that staff is authorized to offer suggestions to the proponents of the draft amendment. He stated the Commission would not be taking any official action at this time.

Discussion and/or Action regarding the consideration of candidates, salary, and appointment of Chief Administrative Law Judge(s). The Commission may vote to discuss this matter in executive session pursuant to A.R.S. §38-431.03(A)(1), (A)(2), and (A)(3). A list of the names of the candidates may be reviewed in the Office of the Director by contacting the Commission's Executive Secretary. The Commission may defer a decision on this matter to a later date

Following consideration of the above agenda items, the Commission returned to this Executive Session for further discussion. Following return to General Session, Mr. Parker commented that he has enjoyed this process. It took a lot of effort and a lot of time and he was very pleased with where we are. The Commission unanimously agreed to offer positions to applicants number 1, 3, and 6 with number 5 as the first runner up and number 4 as the second runner up if any of the first three do not accept, at the salary discussed in Executive Session on motion of Mr. Parker, second of Ms. Strickler.

There being no further business to come before the Commission and no announcements, future scheduling of meetings, or public comment, the meeting was adjourned at 1:24 p.m.

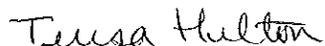
THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary