

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, October 27, 2022 – 1:00 p.m.

Present: Dale L. Schultz	Chairman
Joseph M. Hennelly, Jr.	Vice Chair
Scott P. LeMarr	Commissioner
D. Alan Everett	Commissioner
James Ashley	Director
Gaetano Testini	Chief Legal Counsel
Renee Pastor	Self-Insurance (Telephonic)
Michael Mosesso	Chief Administrative Law Judge
Marilyn Carter	HR Manager
Lisa Padgett	Labor Director
Christina Sanchez	Labor Division
Melissa Spurgeon	Labor Division
Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m.

Approval of Minutes of October 14, 2022 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the October 14, 2022 regular session meeting and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP22/23-0955 Ivy Tree Services, LLC \$1,000
2. 2CNP22/23-0791 THTS Transport LLC \$1,000

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. Dole Food Company, Inc.

Chairman Schultz noted Dole Food Company has an excellent experience modification factor reflecting their excellent safety program.

Commissioner Everett moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and/or Action regarding the Consideration of Candidates for Appointment to the Position of Administrative Law Judge (Tucson) pursuant to A.R.S. § 23-108.02(A). The Commission may move into Executive Session for the purposes described in A.R.S. § 38-431.03(A)(1) and (A)(3).

Judge Mosesso presented five candidates that were interviewed and for the Commission's consideration and recommended Candidate #4 and Candidate #5 on the list with his recommendation that the Commission offer the position to the candidates in that order if candidate #4 is not available.

Vice Chair Hennelly moved to accept Judge Mosesso's recommendation to extend an offer to the candidates in their ranked order. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Schultz presented Judge Mosesso with his 30 years of service certificate and thanked him for his service, diligence, work and perspective in making the hearing division respected and the best in the nation.

Judge Mosesso thanked the Commission and appreciated the comments but stated the successes of the ALJ division are due to the leadership group and Judges whose primary objective is to dispense substantial justice.

Discussion, Action, and Potential Resolution regarding Proposed Rulemaking to Title 20, Chapter 5, Article 12. Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure.

Mr. Testini requested permission to file a Notice of Proposed Rulemaking and Docket Opening regarding Article 12 Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure. The Earned Paid Sick Time law came into effect about five years ago and the Legal Division is currently completing the five-year review to determine what rule changes would help the Department of Labor do their job better and better serve the stakeholders. Suggested changes in this rulemaking packet include adding definitions, eliminating reference to overtime, which is not in the Labor Department's jurisdiction, modernizing rules on e-service as well as providing the Labor Department with a solution for cases where there exists a lack of information.

Chairman Schultz read the Resolution.

Commissioner LeMarr moved to approve proposed rulemaking for Article 12 Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure and to authorize the Legal Division to proceed with rulemaking. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley asked Judge Mosesso to provide an update of the Administrative Law Judge AMS scorecard metrics for the fiscal year-to-date. Judge Mosesso reviewed the ALJ metrics for the 1061(J) process and the Alternative Dispute Resolution (ADR) program.

Chairman Schultz appreciates the work Judge Mosesso is doing on process improvement and making a balance between applying the law and making the system work.

Ms. Dimas confirmed Commission meeting dates through December 2022.

Mr. Ashley suggested adding an additional meeting for December 19, 2022 for Article 12 rulemaking processing.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 1:27 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary