

John R. Kasich, *Governor*  
Thomas H. Bainbridge, *Chairman*  
Jodie M. Taylor, *Member*  
Karen L. Gillmor, Ph.D., *Member*  
Tim Adams, *Executive Director*

**Meeting Minutes**

**Sept. 12, 2018**  
**10:00 A.M.**

**TYPE OF MEETING**            Commission Meeting

**ATTENDEES**                    Chairman Thomas H. Bainbridge  
   Commissioner Jodie M. Taylor  
   Commissioner Karen L. Gillmor  
   Tim Adams, Executive Director  
   Rachael T. Rentas-Black, Chief Legal Counsel  
   Steven Kramer, Administrative Assistant  
   Kim Ferkany, Administrative Assistant  
   Debbie Fodey, Administrative Assistant  
   Julia Smythe, Administrative Assistant  
   Greg Hickman, Assistant Legal Counsel  
   Laura Schank, Hearing Officer Trainer

**CALL TO ORDER**  
Chairman Bainbridge called the meeting to order.

**ACTION BY**  
Mr. Adams call the roll.

**ROLL CALL**  
Commissioner Gillmor                    Present  
Commissioner Taylor                    Present  
Chairman Bainbridge                    Present

**OLD BUSINESS**  
Chairman Bainbridge indicated there was no old business.

**NEW BUSINESS**  
Resolution Project – Greg Hickman indicated that Binder 2 included Joint Resolutions Recommended for Rescission, Joint Resolutions with Suggested Modifications, and Violation of Specific Safety Requirement (VSSR) Exemption Resolutions Recommended for Rescission.

Commissioner Taylor indicated that R89-3-27 is not the current practice of the Industrial Commission.

Tom Connor said that it would be wise to maintain R89-3-27 because BWC may have policy based on the resolution.

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**Existing Resolution Modification (Sections I-III) – Modify Miscellaneous Resolutions to Correct Citations**

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution No. R18-1-02, which rescinds joint resolutions that are no longer valid due to changes in the Ohio Revised Code, the Ohio Administrative Code, Ohio case law, and other policies adopted by the Industrial Commission. The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

No discussion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved that the Industrial Commission modify the following joint resolutions as discussed at today’s meeting:

R80-7-48  
R89-3-27  
R07-1-01

The modification/effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Tom Connor indicated that direct depositing for attorney’s fees may have ethical concerns. These fees must go into an IOLTA account.

Commissioner Taylor suggested not using the word “check” as there are other sources of payment in regard to R07-1-01.

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Greg Hickman suggested R07-1-01 be tabled for discussion with the Bureau of Workers' Compensation.

**MOTION**

Chairman Bainbridge moved that the motion be amended to remove R07-1-01 and that R07-1-01 be tabled for further discussion as discussed at today's meeting.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution No. R18-1-03, which rescinds VSSR exemption resolutions that are no longer valid due to changes in the Ohio Revised Code, the Ohio Administrative Code, Ohio case law, and other policies adopted by the Industrial Commission. The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Greg Hickman indicated the VSSR exemptions are relics of the former system. The Bureau of Workers' Compensation has given the Industrial Commission approval to rescind the VSSR exemption resolutions.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**MOTION**

Chairman Bainbridge moved that the Industrial Commission modify the following resolutions as discussed at today's meeting:

- R94-1-14
- R95-1-03

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R95-1-13  
R98-1-01  
R96-1-06  
R94-1-16  
R94-1-19  
R95-1-12  
R96-1-04  
R97-1-06  
R98-1-02  
R98-1-04  
R07-1-03  
R07-1-04  
R12-1-03  
R15-1-01

Commissioner Taylor seconded the motion.

#### **DISCUSSION**

Greg Hickman indicated that the modifications of these resolutions are to correct citations to align with the Ohio Supreme Court citation standards.

Commissioner Taylor indicated that these modifications are not substantive changes, but merely eliminate duplicative language. These modifications are to more accurately describe the process.

Commissioner Gillmor suggested that R95-1-03 be tabled because it is a big issue for self-insuring employers.

Debbie Fodey explained paragraph (4) of the resolution does not accurately reflect the language contained in Ohio Adm.Code 4121-19-03(K)(5).

#### **MOTION**

Chairman Bainbridge moved that the motion be amended to remove and table the following resolutions for further discussion as discussed at today's meeting:

R95-1-03  
R95-1-13  
R97-1-06

Commissioner Taylor seconded the motion.

#### **ACTION BY**

Mr. Adams called the roll.

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**ROLL CALL**

Commissioner Gillmor            Yes  
Commissioner Taylor            Yes  
Chairman Bainbridge            Yes

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution R18-1-04. Chairman Bainbridge further moved that the Industrial Commission rescind the following resolutions:

R97-1-02  
R97-1-03

The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Greg Hickman indicated that this new resolution would place a 24-hour notice.

Tom Connor indicated this new resolution rescinds the two resolutions listed to only have one resolution.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor            Yes  
Commissioner Taylor            Yes  
Chairman Bainbridge            Yes

**Adopt New Resolution & Rescind (Section IV)**

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution R18-1-05. Chairman Bainbridge further moved that the Industrial Commission rescind the following resolutions:

R04-1-01  
R04-1-03

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The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Greg Hickman indicated this new resolution restates the former two resolutions and condenses them into one resolution.

Commissioner Gillmor indicated that the proposed resolution addresses conduct before both the Industrial Commission and Bureau of Workers' Compensation. She questioned whether the resolution should be a joint resolution or limit its content to actions before the Industrial Commission. Commissioner Taylor agreed and suggested that references to the Bureau of Workers' Compensation be removed from the resolution.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**Adopt New Resolution & Rescind (Section V)**

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution R18-1-06. Chairman Bainbridge further moved that the Industrial Commission rescind the following resolution:

R08-1-01

The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Greg Hickman indicated that the last paragraph is no longer practiced.

Commissioner Taylor agreed that section "E" is no longer practiced.

**ACTION BY**

Mr. Adams called the roll.

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**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**Adopt New Resolution & Rescind (Section VI)**

**MOTION**

Chairman Bainbridge moved that the Industrial Commission adopt Resolution R18-1-07. Chairman Bainbridge further moved that the Industrial Commission rescind the following resolutions:

R82-7-3  
R82-7-25  
R82-7-64  
R90-6-6  
R90-1-10  
R92-1-1  
R96-1-01  
R97-1-01  
R99-1-01  
R03-1-02  
R10-1-01

The effective date is to be September 26, 2018.

Commissioner Taylor seconded the motion.

**DISCUSSION**

Greg Hickman indicated that this resolution is cleaning up superfluous resolutions and will be on the public site.

Commissioner Taylor questioned why the continuance guideline should be rescinded.

Greg Hickman responded that R18-1-03 encompassed R10-1-01.

Tom Connor agreed with Mr. Hickman.

Commissioner Gillmor questioned why R99-1-01 is in this rescission if it was on the agenda to be discussed later.

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Greg Hickman responded that R99-1-01 could be tabled.

**MOTION**

Chairman Bainbridge moved that Industrial Commission table the following resolutions for further discussion at today's meeting:

- R90-1-10
- R97-1-07
- R99-1-01

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**Discuss Attorney Fee on Lump Sums (Section VII)**

**MOTION**

Chairman Bainbridge moved that the Industrial Commission discuss and table the following resolutions in regard to attorney fees on lump sum awards:

- R90-1-10
- R99-1-01
- R07-1-02
- R95-1-13

Commissioner Taylor seconded the motion.

**DISCUSSION**

Commissioner Taylor indicated she would like to see these resolutions addressed in all one resolution.

Rachael Black indicated the recommendation is to address the issue in one resolution.

Commissioner Gillmor indicated it may be wise to have the Rules Advisory Group weigh in on the lump sum advancement issue.



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Tom Connor indicated that the Ohio Association for Justice raised concerns regarding payments of scheduled loss awards. However, it is ultimately up to the commissioners' decision.

Chairman Bainbridge indicated that it is complicated when the Rules Advisory Group is involved. They are involved in some decision-making, but not all. Chairman Bainbridge indicated that this issue has been dealt with solely by the commissioners and that they should be the ones to decide.

Commissioner Taylor indicated the commissioners are only looking solely at the amount. She did not believe this issue needs to go to the Rules Advisory Group. Commissioner Taylor also noted that the amount level has not been addressed for 11 years.

Debbie Fodey questioned whether the Commission would receive push back from the workers' compensation community if the community was not provided an opportunity to weigh in on the issue.

Tom Connor indicated this decision is up to the Industrial Commission.

Commissioner Gillmor inquired as to what data were used to determine the amounts contained in the proposed resolution and suggested the Industrial Commission ask the Rules Advisory Group to review the issue and provide data. This suggestion would allow for more research and a guide to determine the dollar amounts instead of guessing what amount is reasonable. The Industrial Commission can get this information from the Rules Advisory Group, and not ask them for a decision or recommendation.

Chairman Bainbridge questioned whether this information could be obtained in-house.

Commissioner Gillmor indicated that data collection is lacking at the Industrial Commission.

Commissioner Taylor indicated she knew Social Security Disability is \$5,800.

Tom Connor indicated this is an advancement, not a fee.

Commissioner Taylor indicated that it needs to be clear that this resolution addresses an advancement and not a fee. The attorneys receive the advancement from the injured workers' award. However, this issue is between the attorney and the injured worker.

Chairman Bainbridge further added the Rules Advisory Group is not necessary.

Commissioner Taylor indicated she agreed with Chairman Bainbridge that the Industrial Commission make an effort to put into four resolutions with the amounts left blank, and if not comfortable, the Industrial Commission would send it back.

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**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

**DISCUSSION**

Greg Hickman indicated that he would get the resolutions back to the commissioners as soon as possible.

Rachael Black indicated that Wednesday, September 19, 2018, would be the next meeting to vote on the tabled resolutions.

**ADJOURNMENT**

Chairman Bainbridge moved to adjourn.

Commissioner Taylor seconded the motion.

**ACTION BY**

Mr. Adams called the roll.

**ROLL CALL**

Commissioner Gillmor	Yes
Commissioner Taylor	Yes
Chairman Bainbridge	Yes

Respectfully submitted,



Tim Adams  
Executive Director