

OHIO INDUSTRIAL COMMISSION

SPECIAL MEETING

Thursday, July 14, 2022

- - -

PROCEEDINGS

before the Ohio Industrial Commission.

- - -

PRESENT:

Mr. Jim Hughes, Chairman  
Ms. Karen L. Gillmor, Ph.D., Commissioner  
Mr. Daniel J. Massey, Commissioner  
Mr. Tim Adams, Executive Director  
Mr. Tom Connor, Director of Adjudication  
Mr. Jim Burkart, Esq., Chief Legal Counsel

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1 Thursday Afternoon Session,  
2 July 14, 2022.

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4 CHAIRMAN HUGHES: This is a special  
5 meeting of the Ohio Industrial Commission is now  
6 being called to order. This meeting is being  
7 conducted in person, and it's being held in the main  
8 hearing room of the William Green Building located at  
9 30 West Spring Street in Columbus, Ohio.

10 The meeting is also being streamed on  
11 Ohio Industrial Commission's YouTube channel. The  
12 link to listen to this meeting is available on the  
13 Industrial Commission's public website. The purpose  
14 of the special meeting is limited to the following:  
15 Roll call vote on approval on special meeting minutes  
16 of June 9th, 2022; entering into executive session to  
17 review and discuss specific personnel matters and  
18 legal advice; roll call vote on proposed personnel  
19 actions; review and discussion of Memos D-3, G-3,  
20 L-3, S-7; possible roll call vote on Memos D-3, G-3,  
21 L-3, and S-7.

22 During this meeting, it is important  
23 that prior to speaking each participant introduce  
24 themselves by stating their name and their title.  
25 This is to ensure that the audio recording accurately

1 reflects the proceeding and the public is properly  
2 informed. For those of you who are listening on the  
3 Industrial Commission's YouTube channel, please be  
4 aware that if the Commission votes to enter into  
5 executive session, you will not be able to hear a  
6 live recording during that time. When the  
7 Commissioners exit executive session, the recording  
8 will resume.

9 I now ask our Executive Director,  
10 Mr. Tim Adams, to call the roll.

11 MR. ADAMS: This is Tim Adams, Executive  
12 Director of the Ohio Industrial Commission. As I  
13 call your name, please restate your name and affirm  
14 your presence.

15 Commissioner Karen Gillmor.

16 COMMISSIONER GILLMOR: Commissioner  
17 Karen Gillmor, here.

18 MR. ADAMS: Commissioner Dan Massey.

19 COMMISSIONER MASSEY: Commissioner Dan  
20 Massey, here.

21 MR. ADAMS: Chairman Jim Hughes.

22 CHAIRMAN HUGHES: Chairman Jim Hughes,  
23 present.

24 We do have a quorum.

25 At this point in time, we'll look --

1 review the discussion -- review and discussion of  
2 special meeting minutes of June 9th, 2022. We'll now  
3 discuss those -- approval of those minutes from a  
4 special meeting held on June 9th, 2022. The floor is  
5 open for any discussion on those meetings.

6 (No response.)

7 CHAIRMAN HUGHES: Hearing no dis- --  
8 this is Jim Hughes, Chairman. Hearing no discussion  
9 or further discussion, I'd move to adopt the minutes  
10 of a special meeting held June 9th, 2022. Do have I  
11 a second to the said motion?

12 COMMISSIONER GILLMOR: This is  
13 Commissioner Gillmor. I second.

14 CHAIRMAN HUGHES: This is Jim Hughes,  
15 Chairman. It has been properly moved and seconded.  
16 I now will ask our Executive Director, Mr. Tim Adams,  
17 to call the roll, please.

18 MR. ADAMS: This is Tim Adams, Executive  
19 Director of the Ohio Industrial Commission. As I  
20 call your name, please restate your name and state  
21 your vote.

22 Commissioner Karen Gillmor.

23 COMMISSIONER GILLMOR: Commissioner  
24 Karen Gillmor, yes.

25 MR. ADAMS: Mr. Dan Massey.

1                   COMMISSIONER MASSEY: Commissioner Dan  
2 Massey, yes.

3                   MR. ADAMS: Chairman Jim Hughes.

4                   CHAIRMAN HUGHES: Chairman Jim Hughes, I  
5 vote yes.

6                   The matter having the proper number of  
7 votes, the motion does carry.

8                   I will now go to review discussion of  
9 personnel matters and legal advice. There is one  
10 personnel matter that requires discussion on the  
11 Commissioners in executive session. Legal services  
12 will also be providing legal advice during executive  
13 session. Executive session is limited to the  
14 discussion of personnel matters and legal advice, and  
15 any votes will be made in open session.

16                   I, Jim Hughes, move that the Commission  
17 now enter into executive session to discuss the  
18 potential employment of a candidate and the potential  
19 dismissal of an employee. Do I have a second to  
20 enter into executive session?

21                   COMMISSIONER MASSEY: This is  
22 Commissioner Dan Massey. I second the motion.

23                   CHAIRMAN HUGHES: This is Jim Hughes,  
24 Chairman. It has been properly moved and seconded.  
25 I now ask Executive Director Tim Adams to call the

1 roll.

2 MR. ADAMS: This is Tim Adams, Executive  
3 Director of the Ohio Industrial Commission. As I  
4 call your name, please restate your name and affirm  
5 your vote.

6 Commissioner Karen Gillmor.

7 COMMISSIONER GILLMOR: Commissioner  
8 Karen Gillmor, yes.

9 MR. ADAMS: Commissioner Dan Massey.

10 COMMISSIONER MASSEY: Commissioner Dan  
11 Massey, yes.

12 MR. ADAMS: Chairman Jim Hughes.

13 CHAIRMAN HUGHES: Chairman Jim Hughes,  
14 yes.

15 The motion to enter executive session  
16 does carry. I respectfully request that anyone who  
17 has not been invited to remain for executive session,  
18 please leave the hearing room until the Commission  
19 reconvenes in open session. At this point in time,  
20 we'll end the audio recording while the Commission is  
21 in executive session.

22 (Excession session entered.)

23 CHAIRMAN HUGHES: This is Jim Hughes,  
24 Chairman. We are now back on record.

25 Having reviewed the personnel matter in

1 executive session, I am now making a motion to  
2 approve the hiring of the district hearing officer  
3 discussed in executive session. Do I have a second  
4 to the said motion?

5 COMMISSIONER GILLMOR: This is  
6 Commissioner Gillmor. I second.

7 CHAIRMAN HUGHES: Jim Hughes, Chairman.  
8 Thank you, Commissioner Gillmor, for your second. I  
9 received a proper second.

10 I will now ask our Executive Director,  
11 Mr. Tim Adams, to call the roll.

12 MR. ADAMS: This is Tim Adams, Executive  
13 Director of the Ohio Industrial Commission. As I  
14 call your name, please restate your name and state  
15 your vote.

16 Commissioner Karen Gillmor.

17 COMMISSIONER GILLMOR: Commissioner  
18 Karen Gillmor, yes.

19 MR. ADAMS: Commissioner Dan Massey.

20 COMMISSIONER MASSEY: Commissioner Dan  
21 Massey, yes.

22 MR. ADAMS: Chairman Jim Hughes.

23 CHAIRMAN HUGHES: Chairman Jim Hughes,  
24 yes. Jim Hughes, the Chairman, having received the  
25 proper number of votes, the matter does carry.

1           Now I'll move to our next order of  
2 business, which is review, discuss, and vote --  
3 possible vote on the Memos D-3, G-3, L-3, and S-7.  
4 We will now have review and discuss all those, and at  
5 this point in time what I'd like to do is like to  
6 call upon our Director of Adjudication, Mr. Tom  
7 Connor, to give us his learned advice and wisdom.

8           MR. CONNOR: This is Tom Connor,  
9 Director of Adjudication. The Board policies before  
10 you, two of them are as a result of House Bill 75  
11 (inaudible) BWC budget, and then the other two  
12 (inaudible) some questions that have arisen  
13 (inaudible) in another case (inaudible).

14           So with regard to Memo D-3 about salary  
15 continuation, prior to House Bill 75 an injured  
16 worker had to wait a period of time after the date of  
17 injury or after the payment of compensation pursuant  
18 to 56(F) -- or, I'm sorry, pursuant to 56. In the  
19 final salary continuation at that time because salary  
20 continuation was not paid pursuant to 56, that got  
21 changed in BWC's budget; so we wanted to add the  
22 provision in Item 4 that says that the injured worker  
23 must now wait that applicable waiting period after  
24 the payment of salary continuation as well.

25           (Inaudible) obviously the hearing



1 officers have been notified of this after the law  
2 changed and -- and applied it that way. This is just  
3 kind of making up the policy to match what that legal  
4 provision was.

5 CHAIRMAN HUGHES: This is Jim Hughes,  
6 Chairman. Does anybody have any questions of our  
7 Director of Adjudication, Tom Connor, regarding Memo  
8 D-3?

9 (No response.)

10 CHAIRMAN HUGHES: Hearing or not seeing  
11 any further discussion, this is Jim Hughes, I will  
12 make a motion to adopt those changes to Memo D-3. Do  
13 I have a second to that?

14 COMMISSIONER MASSEY: This is  
15 Commissioner Dan Massey. I second the motion.

16 CHAIRMAN HUGHES: Jim Hughes, Chairman.  
17 Thank you, Commissioner Massey, for your second.

18 I will now ask Executive Director Tim  
19 Adams to call the roll regarding the motion in  
20 regards to Memo D-3.

21 MR. ADAMS: This is Tim Adams, Executive  
22 Director of the Ohio Industrial Commission. As I  
23 call your name, please restate your name and state  
24 your vote.

25 Commissioner Karen Gillmor.

1                   COMMISSIONER GILLMOR: Commissioner  
2 Karen Gillmor, yes.

3                   MR. ADAMS: Commissioner Dan Massey.

4                   COMMISSIONER MASSEY: Commissioner Dan  
5 Massey, yes.

6                   MR. ADAMS: Chairman Jim Hughes.

7                   CHAIRMAN HUGHES: Chairman Jim Hughes,  
8 yes.

9                   The motion does have the proper number  
10 of votes; so it was adopted.

11                   I'll next go to the next order of  
12 business that's on our docket, which is the G-3,  
13 Memos G-3. I'll also call upon our Director of  
14 Adjudication, Mr. Tom Connor, to tell us about this.

15                   MR. CONNOR: This is Tom Connor,  
16 Director of Adjudication. There's two -- two changes  
17 to G-3; one is a very minor one (inaudible), and it's  
18 a question that comes to me once in a while when you  
19 see a situation where one condition in a claim may be  
20 medically work prohibitive, but other conditions  
21 might not even be MMI. And there was some confusion  
22 as to what do you do when some conditions aren't even  
23 at MMI and -- and others are work prohibitive  
24 completely. And the idea is if someone is  
25 permanently totally as a matter -- matter of

1 medicine, not vocational factors, if medically one  
2 condition prevents them from ever working again,  
3 that's sufficient. It doesn't matter then that the  
4 other conditions may still be getting treated or  
5 whatever, if they're never going back and that's what  
6 the medical shows. So -- and it says even if based  
7 on one condition only, that's what it's supposed to  
8 address.

9           The other provision that's in here comes  
10 out of the (inaudible), and what House Bill 75 added  
11 in that when someone's been denied PTD in the past,  
12 they have to show a change of circumstances of coming  
13 back into law. Prior to -- to this was that that was  
14 not necessary, you could refile for PTD and it just  
15 went through into adjudication. Now that's part of  
16 the evaluation process and subsequent applications  
17 once a PTD application has previously been denied.  
18 So we wanted to get that into this -- this policy as  
19 well.

20           CHAIRMAN HUGHES: This is Jim Hughes  
21 Chairman. Thank you, Tom Connor, Director of  
22 Adjudication, for that presentation.

23           Are there any questions of Mr. Connor  
24 regarding what is dealing with in Memo G-3?

25           COMMISSIONER MASSEY: No questions,

1 Mr. Chairman.

2 CHAIRMAN HUGHES: Seeing no -- this is  
3 Jim Hughes, Chairman. Seeing no questions regarding  
4 G-3, I now move to adopt the proposed changes to Memo  
5 G-3. Do I have a second to my said motion?

6 COMMISSIONER GILLMOR: This is  
7 Commissioner Karen Gillmor. I second.

8 CHAIRMAN HUGHES: This is Jim Hughes  
9 Chairman. Thank you, Commissioner Gillmor, for your  
10 second.

11 I will now ask Executive Director,  
12 Mr. Tim Adams, to call the roll.

13 MR. ADAMS: This is Tim Adams, Executive  
14 Director of the Ohio Industrial Commission. As I  
15 call your name, please restate your name and state  
16 your vote.

17 Commissioner Karen Gillmor.

18 COMMISSIONER GILLMOR: Commissioner  
19 Karen Gillmor, yes.

20 MR. ADAMS: Commissioner Dan Massey.

21 COMMISSIONER MASSEY: Commissioner Dan  
22 Massey, yes.

23 MR. ADAMS: Chairman Jim Hughes.

24 CHAIRMAN HUGHES: Chairman Jim Hughes,  
25 yes. Said motion having the proper number of votes,

1 it is adopted.

2 I will now go to the next item on our  
3 docket, which is L-3. Once again, I'll call upon  
4 Mr. Tom Connor, Director of Adjudication, for the  
5 proposed changes, please.

6 MR. CONNOR: This is Tom Connor,  
7 Director of Adjudication.

8 Memo L-3 involves signing orders.  
9 and -- and what we went through in the past year is  
10 an effort working on multiple classifications getting  
11 to -- to adjust their goals, performance goals. And  
12 what we realized, in the past the goal was to get  
13 orders out within 24 hours, but it is really a  
14 situation that was more of an aspirational kind of  
15 goal, because if you think about it, if you've got  
16 hearings on a Friday, it would be Monday, and then  
17 what you didn't want is someone just issuing a bunch  
18 of -- or a hearing officer issue a bunch of  
19 advisement orders just to meet their goal and create  
20 a mess in a claim file in order to do that.

21 So what this does is -- is recognizes  
22 that this is still within the time frames provided by  
23 statute to get these orders out and this is a  
24 reasonable goal. So if this 72 hours matches up to  
25 their goal that -- that they have in the performance

1 measures and they're being measured on now. And so  
2 it really doesn't change the behavior, but it makes  
3 it so we don't end up with a bunch of advisement  
4 orders just for the purposes of meeting a performance  
5 measure and sending those out and then sending a day  
6 later the actual order in a claim.

7 CHAIRMAN HUGHES: This is Jim Hughes,  
8 Chairman. Does anybody have any questions of  
9 Mr. Connor regarding Memo L-3?

10 (No response.)

11 CHAIRMAN HUGHES: Seeing none, this is  
12 Jim Hughes, I will make a motion to adopt those  
13 changes to Memo L-3. Do have I a second to my  
14 motion?

15 COMMISSIONER MASSEY: This is  
16 Commissioner Dan Massey. I will second the motion.

17 CHAIRMAN HUGHES: This is Jim Hughes,  
18 Chairman. Thank you, Commissioner Massey, for your  
19 second.

20 I now call upon our Executive Director,  
21 Mr. Tim Adams, to call the roll please.

22 MR. ADAMS: This is Tim Adams, Executive  
23 Director of the Ohio Industrial Commission. As I  
24 call your name, please restate your name and state  
25 your vote.

1 Commissioner Karen Gillmor.

2 COMMISSIONER GILLMOR: Commissioner  
3 Karen Gillmor, yes.

4 MR. ADAMS: Commissioner Dan Massey.

5 COMMISSIONER MASSEY: Commissioner Dan  
6 Massey, yes.

7 MR. ADAMS: Chairman Jim Hughes.

8 CHAIRMAN HUGHES: Chairman Jim Hughes,  
9 yes.

10 This is Jim Hughes, Chairman. The said  
11 motion having the proper number of votes, it is  
12 approved.

13 I will now go to the last thing on our  
14 docket today, which is S-7. Once again, I'll call  
15 upon Mr. Tom Connor, Director of Adjudication.

16 MR. CONNOR: This is Tom Connor,  
17 Director of Adjudication. Once again, this is the  
18 fallout -- the S-7 suggested change is a fallout of  
19 some recent legislation where they added salary  
20 continuation in to be treated like temporary total  
21 disability. So 4123.55 provides -- Code 4123.55  
22 talks about the first week of comp- -- total  
23 disability compensation after an injury is not  
24 payable until 14 days consecutively (inaudible). We  
25 wanted to add in it applies temporary total or wages

1 in lieu of temporary total pursuant to the recent  
2 changes of the law (inaudible).

3 CHAIRMAN HUGHES: This is Jim Hughes.  
4 Chairman. Thank you, Mr. Connor, for that.

5 Were there any questions of Mr. Connor  
6 regarding S-7, the memo, and what he's described?

7 COMMISSIONER GILLMOR: (Inaudible).

8 CHAIRMAN HUGHES: Seeing -- this is Jim  
9 Hughes, Chairman. Seeing no questions, I now move  
10 for the approval of the changes outlined in Memo S-7.  
11 Do have I a second to a said motion?

12 COMMISSIONER GILLMOR: This is  
13 Commissioner Karen Gillmor. I second.

14 CHAIRMAN HUGHES: This is Jim Hughes,  
15 Chairman. Thank you, Commissioner Gillmor, for that  
16 second.

17 I now will call upon the Executive  
18 Director, Mr. Tim Adams, to call the roll.

19 MR. ADAMS: This is Tim Adams, Executive  
20 Director of the Ohio Industrial Commission. As I  
21 call your name, please restate your name and state  
22 your vote.

23 Commissioner Karen Gillmor.

24 COMMISSIONER GILLMOR: Commissioner  
25 Karen Gillmor, yes.



1 MR. ADAMS: Commissioner Dan Massey.

2 COMMISSIONER MASSEY: Commissioner Dan  
3 Massey, yes.

4 MR. ADAMS: Chairman Jim Hughes.

5 CHAIRMAN HUGHES: Chairman Jim Hughes,  
6 yes.

7 This is Chairman Jim Hughes. Said  
8 motion does have the proper number of votes, it does  
9 become -- it is adopted.

10 At this point in time, having considered  
11 all of the items of our agenda for this special  
12 meeting, I, Jim Hughes, move to adjourn. Do I have a  
13 second to the said motion?

14 COMMISSIONER MASSEY: This is  
15 Commissioner Dan Massey. I second the motion.

16 CHAIRMAN HUGHES: This is Jim Hughes,  
17 Chairman. Thank you, Commissioner Massey, for your  
18 second.

19 I'll ask for our Executive Director,  
20 Mr. Tim Adams, to call the roll please.

21 MR. ADAMS: This is Tim Adams, Executive  
22 Director of the Ohio Industrial Commission. As I  
23 call your name, please restate your name and state  
24 your vote.

25 Commissioner Karen Gillmor.

1 COMMISSIONER GILLMOR: Commissioner

2 Karen Gillmor, yes.

3 MR. ADAMS: Commissioner Dan Massey.

4 COMMISSIONER MASSEY: Commissioner Dan

5 Massey, yes.

6 MR. ADAMS: Chairman Jim Hughes.

7 CHAIRMAN HUGHES: Chairman Jim Hughes,

8 yes. Motion does carry.

9 We are adjourned.

10 (Thereupon, the proceedings were adjourned.)

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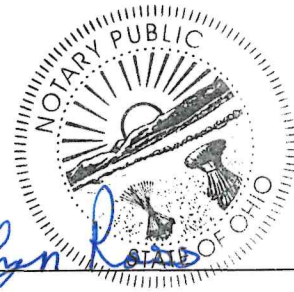
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CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the audio  
proceedings taken by me in this matter.



*Carolyn Ross*

Carolyn D. Ross,  
Registered Professional  
Reporter and Notary  
Public in and for the  
State of Ohio.