



Agenda Date: 3/13/2007
Agenda Placement: 6J

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Britt Ferguson for Nancy Watt - County Executive Officer
County Executive Office
REPORT BY: KERRY WHITNEY, Risk Manager, 253-4821
SUBJECT: Adoption of a resolution concerning provision of workers' compensation coverage for certain categories of volunteers and Corrections Department inmates

RECOMMENDATION

County Executive Officer requests adoption of a resolution designating certain persons as employees of the County for purposes of workers' compensation, excluding others, and rescinding all other resolutions on the same subject.

EXECUTIVE SUMMARY

In the past, the County has adopted a number of resolutions designating certain classes of individuals, who provide de minimis or uncompensated services to the County, as employees for the purposes of workers' compensation. Approval of the recommended action will rescind and supersede all such previous resolutions by means of a single, newly adopted resolution. The intent of this action is to align the County's workers' compensation policies with current state statutes concerning the treatment of certain volunteers and inmates as employees for purposes of workers' compensation coverage.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Insurance Workers' Compensation
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	The recommended action, if approved, is anticipated to have a negligible impact on current and future workers' compensation expenses.

Consequences if not approved: The County would not be in compliance with certain state statutes related to recognizing certain categories of volunteers and inmates as employees for purposes of workers' compensation.

Additional Information: None.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

In the past, the County has adopted a number of resolutions designating certain classes of individuals, who provide de minimis or uncompensated services to the County, as employees for the purposes of workers' compensation. Previous to today's resolution, the most recent resolution (Resolution No. 05-13) amending County workers' compensation policies was adopted by the Board on January 25, 2005. The categories of individuals covered and not covered under workers' compensation pursuant to Resolution No. 05-13 was the result of a general review and update of workers' compensation policies by County Counsel, Risk Management, and the County Executive Office.

With the exception of the following three categories of individuals, which are recommended to be included as employees for the purposes of workers' compensation, the categories of covered and non-covered individuals remains essentially unchanged. The three categories are noted below:

- | **Persons participating in a Court ordered Court Community Service Program.** According to case law, a person who works in compliance with a court order is not a "volunteer" but rather an "employee" and entitled to workers compensation benefits. Therefore, it is recommended that this category of individuals be recognized as employees in the County's workers' compensation policies.
- | **Inmate participating in the County's Corrections Conservation Corp (CCC) Program pursuant to Penal Code Sections 4024.2 or 4024.3.** The County currently operates a jail work release program pursuant to Penal Code Section 4024.2. This program basically allows an inmate to reduce his sentence time for days of community service. Staff considers that the inmates working in the CCC program would meet the criteria to be considered an "employee" for purposes of workers' compensation. The County does not currently have in place a Penal Code Section 4024.3 program, which would provide an alternative for mandatory work release programs. However, staff has deemed it expedient to include this category of individuals as covered employees for purposes of workers's compensation so that the policy would not require amendment should a 4024.3 program be implemented in the future.
- | **Any inmate assigned to fire suppression or prevention activities including, but not limited to, the County's Firewise Chipping Program.** The Napa County Fire Department is in the process of establishing a chipping program that requires the use of four (4) inmates to operate the chipper equipment. Resolution No. 05-13 excludes jail inmates from workers compensation benefits. However, Labor Code section 4017 mandates that inmates involved in fire prevention or suppression are employees and entitled to workers compensation benefits. Therefore, it is recommend that this category of individuals be considered employees for purposes of workers' compensation.

Approval of the recommended action will rescind and supersede resolution No. 05-13 and all such previous resolutions by means of a single, newly adopted resolution designating certain persons as employees of the

County and excluding others from the designation of employee for purposes of workers' compensation. With the adoption of the recommended action, the following persons will be expressly designated and considered employees for the purposes of workers' compensation:

1. Any person who performs voluntary services for the County at the discretion of a Department Head;
2. Any person registered as an active firefighting member of a regularly organized volunteer fire department having official recognition and full or partial support of the County;
3. Any voluntary unsalaried member of any Sheriff's reserve, auxiliary, squadron, or posse, except while in the performance of a mission for the Governor's Office of Emergency Services or any other disaster services pursuant to the California Emergency Services Act;
4. Any person participating in a Court ordered Court Community Service Program;
5. Any inmate participating in the County's Corrections Conservation Corp Program pursuant to Penal Code Sections 4024.2 or 4024.3;
6. Any inmate assigned to fire suppression or prevention activities including, but not limited to, the County's Firewise Chipping Program.

With the adoption of the recommended action, the following persons will be expressly excluded from the designation of employee for purposes of workers' compensation:

1. Any voluntary unsalaried member of any Sheriff's reserve, auxiliary, squadron or posse while in the performance of a mission for the Governor's Office of Emergency Services or any other disaster services pursuant to the California Emergency Services Act;
2. Any person ordered by the Court to participate in any Court Juvenile Program;
3. Any informant of a County law enforcement agency;
4. Any inmate compelled to work for the benefit of the County at the direction of the Director of Corrections pursuant to County Ordinance Section 1.16.020;
5. Any inmate of the County jail who participates in any work or education furlough program; and
6. Any inmate of the County jail who participates in the inmate vocational training program pursuant to County Ordinance Section 1.16.130.

SUPPORTING DOCUMENTS

A . Resolution

CEO Recommendation: Approve

Reviewed By: Andrew Carey