



Agenda Date: 4/3/2007
Agenda Placement: 6L

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Britt Ferguson for Watt, Nancy - County Executive Officer
County Executive Office

REPORT BY: Andrew Carey, Management Analyst, 253-4477

SUBJECT: Adoption of a resolution to replace a current resolution concerning the categories of persons that are designated as employees for purposes of workers' compensation, adding a new category comprised of inmates assigned to fire suppression work

RECOMMENDATION

County Executive Officer requests adoption of a resolution to replace a current resolution concerning the categories of persons that are designated as employees for purposes of workers' compensation. This resolution adds a new category of persons comprised of inmates assigned to fire suppression and prevention activities (all other categories in the prior resolution remain unchanged except for minor technical edits).

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. The intent of the recommended action before the Board today is to align the County's workers' compensation policy with state law concerning the designation of inmates at the Department of Corrections assigned to fire suppression or fire prevention activities as employees for purposes of workers' compensation coverage.

Penal Code Section 4017 mandates that inmates involved in fire prevention or suppression activities are employees and entitled to workers' compensation benefits. Thus, should any Napa County Department of Corrections inmates be assigned to fire suppression or fire prevention activities, the County would be required to consider them employees for the purposes of workers' compensation coverage.

Currently, the County's workers' compensation policy does not include such inmates as designated employees for the purpose of workers' compensation coverage. However, because the Napa Firewise community chipper program contemplates using Napa County Department of Corrections inmates to operate one chipper this summer as part of the County's ongoing program to reduce potential fuel accumulations in wildland urban interface areas of the County, it is necessary to change the County's workers' compensation policy to designate such 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?	Discretionary
Discretionary Justification:	Penal Code Section 4017 mandates that inmates involved in fire prevention or suppression activities are employees and entitled to workers' compensation benefits. Thus, should any Napa County Department of Corrections inmates be assigned to fire suppression or fire prevention activities, the County would be required to consider them employees for the purpose of workers' compensation coverage. However, the County is not required to assign inmates to fire suppression or fire prevention activities, thus adoption of the recommended resolution is a discretionary action for the Board.
Is the general fund affected?	No
Future fiscal impact:	Approval of the recommended action is anticipated to have a negligible impact on current and future workers' compensation expenses. The rationale for concluding that future fiscal impacts related to approval of the recommended action are likely to be negligible is based on the factors that contribute to workers' compensation premiums - total annual employee payroll expense and actual claims experience. Inmates assigned to fire suppression or fire protection work are not and will not be on paid status and, therefore, will not increase total annual County payroll expense. Furthermore, claims experience for inmates assigned to fire suppression or fire protection work is anticipated to be low - partly due to the training that will be provided inmates concerning safe operation of the chipper and safety training concerning handling materials to be chipped. Actual claims experience is also anticipated to be low based on the minimal claims experience of the Placer County Fire community chipping program, which has used inmates to operate a similar chipping program since 1998. (Please see the background section of this staff report for additional information concerning the Placer County Fire community chipping program.)
Consequences if not approved:	The County would not be able to assign inmates to fire suppression or fire prevention activities because the County's workers' compensation policy would exclude such inmates from workers' compensation coverage.
Additional Information:	

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 intent of today's recommended action is to align the County's workers' compensation policy with state law concerning the designation of Napa County Department of Corrections (NCDC) inmates assigned to fire suppression or fire prevention activities as employees for purposes of workers' compensation coverage. Penal Code Section 4017 mandates that inmates involved in fire prevention or suppression are employees and entitled to workers' compensation benefits. Thus, should any NCDC inmates be assigned to fire suppression or fire prevention activities, the County would be required to consider them employees for the purposes of workers' compensation coverage.

Approval of today's recommended action is necessary in order for the Firewise community chipper program to use NCDC inmates for fire prevention (chipper operation) activities. The community chipper program contemplates using NCDC inmates to operate the chipper. These inmates will be supervised by one or more contract employees funded through the County Fire budget, while the overall operation of the program will be managed and monitored by the County Fire Marshal.

Napa County's plan for a community chipper program utilizing inmates is based upon a similar program operated by Placer County Fire. The Placer County Fire chipping program currently has three chipper crews (inmates operating chippers under non-inmate supervision) and plans to add a fourth crew within the next year. Since the program's inception in 1998, Placer County has experienced less than 10 injury claims and no "lost time" due to injuries. According to the Placer County Fire chipping program coordinator and the Placer County Risk Manager, there have been no public or grand jury complaints concerning the use of inmates for this service over the life of the program. Additional information concerning the Placer County Fire chipping program is noted below:

- | Duration of program: 1998 to present.
- | Operations: 8 hrs per day, 5 days per week, 50 weeks per year.
- | Approximately 8 to 12 inmates are assigned to chipper work each day.

With the exception of inmates assigned to fire suppression or fire prevention activities pursuant to Penal Code 4017, no other changes are being recommended to the County's workers' compensation policies at this time. In the attached resolution, the category of inmates assigned to fire suppression or fire prevention activities is addressed in Section 1. d. Except for minor wordsmithing, all other categories of persons identified in the attached resolution, whether designated as employees for the purpose of workers' compensation (Section 1. a - c) or identified as being excluded from designation as employees for the purpose of workers' compensation (Section 2. a - f), remain unchanged from the most recent workers' compensation resolution (05-13) adopted in 2005.

Risk Management and County Counsel are mid-process in conducting a comprehensive review of the County's workers' compensation policies, and expect to return to the Board in the near future with further recommendations concerning a number of categories of individuals that may or may not be designated as employees for purposes of workers' compensation coverage. At that time, a detailed analysis of the various categories being recommended as exempt or covered individuals will be presented for the Board's consideration.

SUPPORTING DOCUMENTS

A . Resolution

CEO Recommendation: Approve

Reviewed By: Andrew Carey