



Consideration of Workers' Compensation for Volunteers

Summary

At the November 3, 2010 meeting staff informed the Board they were researching the costs and necessity of providing workers' compensation benefits for staff and board volunteers and, with Counsel, would draft a resolution for the Board to review and potentially approve at its December 1, 2010 meeting.

Background

According to Labor Code 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees.

Workers' compensation is a no-fault system, and with few exceptions, the exclusive remedy for injuries and illnesses suffered while working. When volunteers are covered, they are entitled to the same benefits as any paid staff. Workers' compensation benefits are finite and limited to medical, disability, and retraining costs associated with a specific impairment. When volunteers are excluded from workers' compensation coverage, they can seek remedy in the civil court system. The court may award compensation for pain and suffering plus other damages. While the volunteer must prove fault, the civil awards are typically much higher than the corresponding workers' compensation benefits.

Volunteers for the Conservancy fall into two categories, staff and board volunteers. Staff volunteers are individuals brought on board to assist Conservancy staff with tasks such as research, data management and other routine matters internal to the Conservancy. These volunteers would most likely be students, fellows or retirees from the private sector. Board members are also considered "volunteers" because they are not paid for their services to the Delta Conservancy.

We must notify our provider, State Compensation Insurance Fund (SCIF), of our determination whether to extend workers' compensation coverage to volunteers. Thereafter, we must review our determination and update our notification to SCIF annually, or whenever there is a significant change to our volunteer program. No fees are encumbered until volunteers come on board and we notify SCIF.

Agencies with governing boards need to adopt a resolution to extend workers' compensation coverage to volunteers. Documentation concerning the resolution should be included when notifying SCIF.

SCIF requests the resolution include their policy number and specify whether or not board volunteers will be covered.

Review

Covering financial risk is the primary reason to provide workers' compensation benefits for staff or board volunteers. The costs associated with workers' compensation benefits for volunteers are minimal, see chart below, and protect the Conservancy from encumbering civil court procedures and civil awards, typically higher than corresponding workers' compensation benefits. Providing workers' compensation benefits may help attract well qualified volunteers to complete tasks staff would otherwise be unable to complete to expand the work of the Conservancy.

Some state agencies elect to provide workers' compensation benefits to volunteers, others do not.

Fiscal Information

Monthly cost estimates for covering individual volunteers is estimated using the "like pay for like work" principle and factors in the appropriate salary range for the services provided by the volunteer along with hours worked per month. Staff volunteers will most likely fall into the minimum to low wage range and would provide services routine and less technical in nature. Board volunteers, who provide over site and policy direction for the Conservancy would be covered at an appropriate salary range given their level of responsibility.

The monthly cost for a typical staff volunteer providing 40 hours of monthly service is approximately \$4. The monthly cost for a board volunteer, typically providing 3 hours of monthly service, is \$4.43. Projected volunteer costs are shown in the following table.

Volunteer Type	Estimated # Volunteers	Monthly Hours	Monthly Cost Each Volunteer	Annual Cost
Staff Volunteer	1	40	\$4	\$48
Board Volunteer	1	3	\$4.43	\$53.16

Projected estimated annual costs may be approximately \$101.16.

Proposed Resolution

Workers' Compensation for Volunteers

WHEREAS, the Sacramento-San Joaquin Delta Conservancy Board in order to extend workers' compensation coverage to staff volunteers must adopt a resolution making that declaration; and that determination must be documented and communicated annually to the State Compensation Insurance Fund to update Policy # 1958295-10, effective November 2, 2010; and

WHEREAS, Sacramento-San Joaquin Delta Conservancy plans to use staff volunteers, such as students, in a limited capacity; and

WHEREAS, each volunteer is deemed to be an "employee" as set forth in the labor code of California; and each "employee" will be recorded as to hours worked and that an assignment of an agreed hourly rate will be made; and the hours logged at the appropriate "wage rate" per hours will be reported to State Compensation Insurance Fund at agreed intervals; and

WHEREAS, the Sacramento-San Joaquin Delta Conservancy Board does not extend workers' compensation coverage to board volunteers, except on an as needed basis and as requested by board member; and

WHEREAS, in most circumstances, a person who is covered by workers' compensation cannot sue the employing agency in civil court if they are injured while engaged by that agency; therefore, be it

RESOLVED, the Sacramento-San Joaquin Delta Conservancy Board hereby supports and affirms the declaration of the Executive Officer of the Sacramento-San Joaquin Delta Conservancy to extend workers' compensation coverage to staff volunteers working for this agency and not to extend workers' compensation coverage to board member volunteers, except on an as needed basis and at the board member's request.

Contact

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