

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: Valerie L. Meicher, Human Resource Development Director
Kenneth C. Pennoyer, Business Management Director

SUBJECT: Ordinance Repealing Code of Ordinance Chapter 14, Article VII, Sec. 14-64
Workers' compensation leave.

DATE: June 22, 2009

PURPOSE

The purpose of this memorandum is to recommend that Council repeal Town Code Section 14-64 on workers' compensation.

BACKGROUND AND DISCUSSION

Over the past year, the Town of Chapel Hill has reviewed various strategies to emphasize a safe workplace, reduce preventable accidents and reduce workers' compensation and accident costs. The safety of our employees is of paramount importance and we are developing and implementing a Town wide safety program that provides training for employees at all levels and increases accountability for unsafe acts. We are also enhancing our return to work program so employees can get back to work sooner in a job that they are physically able to do.

Under the Workers' Compensation Act, when an employee is temporarily disabled from work, there is a waiting period of seven days before any disability benefits are due. Beginning with the eighth day of disability, the statute provides for weekly disability payments in the amount of two-thirds (66.67%) of the average weekly wage up to a maximum of \$816 per week. If disability continues, beginning with the twenty-second day of disability, the employer is required to pay compensation for the first seven days.

The Workers' Compensation Act is a "no-fault" statute, in which the employer is required to assume all of the financial loss except for the limitations described above (waiting period and one-third of wages), even if the injured employee is at fault.

Disability benefits paid to the employee as workers' compensation are not taxable by the state or federal governments. In some instances, this allows an employee receiving worker's compensation benefits to receive a net pay that is, in effect, greater than their normal net pay. This is dependent on the amount of deductions normally taken from the employee's regular pay.

In addition to the statutory benefit the Town provides an “accident leave” supplement that continues an employee’s salary at 100% of regular pay. This supplement is in addition to the two-thirds regular pay required under the Worker’s Compensation Act. The direct cost of providing this supplement is approximately \$30,000 per year, however the indirect cost associated with salary continuation is many times greater. Information provided by the North Carolina Interlocal Risk Management Agency (NCIRMA), the entity that runs a worker’s compensation insurance pool that includes 460 North Carolina Municipalities, suggests that municipalities that offer a salary continuation benefit experience per claim costs of almost double those of municipalities that only provide the statutory benefit. These higher per claim costs have driven higher premium costs for the Town. A third party insurance consultant hired by the Town concluded that the Town’s Workers’ Compensation costs were as much as \$400,000 more than comparable towns, due in large part to claims experience reflecting a very high per claim cost.

The Town’s policy also differs from the statutory benefit with respect to the waiting period prior to receiving benefits. The Town currently has a three day waiting period compared to 7 under the statutory benefit. We are recommending that the Town adopt a 7 day waiting period, however employees would have the option to use accrued leave to maintain salary. After the waiting period, employees would receive the lesser of \$816 per week or two-thirds of their average weekly wage. Employees will have the option of using accrued leave to increase their payments under workers compensation up to a maximum of their normal salary. If the statutory 66.7% is paid as worker’s compensation benefits, this amount is not subject to state or federal taxation. However, any amount from sick leave paid above 66.7% will be subject to state and federal taxes. For the statutory part of the benefit the employee would not participate in the state retirement system. In addition, employees receiving worker’s compensation benefits do not earn sick or vacation time while receiving worker’s compensation benefits.

SUMMARY

Worker’s compensation costs account for more than two-thirds of the Town’s annual insurance costs. The current worker’s compensation premium is more than \$1.1 million. In addition to the dollar cost, worker’s compensation injuries have a negative impact on workplace moral and productivity. We believe that the cost of worker’s compensation benefits can be reduced significantly through an expanded safety program and changes in worker’s compensation policies and practices that will promote on the job safety and minimize the frequency and duration of lost time on-the-job-injuries.

For this reason we recommend that Council repeal the Ordinance which provides Workers’ compensation salary supplement. The Town’s workers’ compensation (accident leave) policy would then conform to state statutes as provided for in Code of Ordinance Chapter 14, Article VII Sec. 14-63 Workers’ compensation. Employees’ waiting period for lost work wages would begin after 7 rather than 3 days of absence. Employees will be able to use accrued leave during this period to maintain their pay. Benefit payments will be 66.7% of regular pay with no state and federal deductions up to the maximum of \$816 per week, instead of 100% of regular pay. Employees will have the option of using accrued leave to make up the difference between the statutory benefit and their regular pay.

RECOMMENDATIONS

Repeal Chapter 14, Article VII Sec. 14-64 Workers' compensation leave and return to the state statutes as provided for in Code of Ordinance Chapter 14, Article VII Sec. 14-63.

We recommend that the Council enact the attached ordinance: