

INTRODUCTION

This plan is part of an overall reorganization of the Environmental and Public Protection Cabinet (EPPC) and establishes the Labor Cabinet, effective June 16, 2008, for program enforcement. In order to operate as efficiently as possible and conserve state resources, the Labor Cabinet will be more streamlined than the current Department of Labor (DOL) and will share some administrative and legal services with other regulatory agencies. This shared services concept could eventually serve as a model for the rest of state government. The new organization will use funds more efficiently and operate programs more effectively than the current structure. This reorganization will actually save money, and no employees will be adversely affected.

SUMMARY OF PLAN

The Department of Labor will return to a cabinet with a programmatic, organizational structure similar to the one in place before the comprehensive reorganization of state government in 2003 and 2004. The new structure will eliminate unnecessary levels of management created by that reorganization in order to concentrate limited resources on frontline, regulatory activities. The proposed changes will greatly enhance the services provided to the citizens of the Commonwealth. The savings realized from these changes will more than offset any additional cost incurred as a result of the upgrade to cabinet, which will be minimal. The new cabinet will continue to share some administrative and legal services through memoranda of agreement with the other regulatory agencies that are now also a part of EPPC.

There will be two departments in the Labor Cabinet: the Department of Workers' Claims (DWC) and the Department of Workplace Standards (DWS), each headed by a commissioner. The Department of Workers' Claims will retain essentially the same organization as the current Office of Workers' Claims (OWC) in the Department of Labor. The existing Office of Workplace Standards (OWS) and Office of Occupational Safety and Health (OOSH) will be abolished and their functions consolidated in the Department of Workplace Standards (DWS); one commissioner will perform the duties presently done by two executive directors. DWS will contain the four divisions presently in OWS and OOSH: Division of Employment Standards, Apprenticeship and Training (renamed as the Division of Employment Standards, Apprenticeship & Mediation); Division of OSH Compliance; Division of OSH Education and Training; and the Division of Workers' Compensation Funds.

The department's Office of Labor Management Relations and Mediation will be abolished and its duties, budgets, and personnel—along with the current Division of Employment Standards, Apprenticeship and Training—moved into the Division of Employment Standards, Apprenticeship & Mediation. The Labor Cabinet Office of General Counsel, including the Office of General Counsel for Workers' Claims, and the Division of Management Services will be attached to the secretary's office. An Office of General Administration and Program Support for Shared Services (GAPS Shared Services) and an Office of Inspector General for Shared Services (OIG Shared Services) will be attached to the Labor Cabinet for administrative purposes only and shared among three newly-created cabinets: Energy and Environment Cabinet; Labor Cabinet; and Public Protection Cabinet.

Several boards and independent agencies now attached to the Department of Labor as specified in KRS 224.10-020(3)(b) and KRS 336.015(3) will be attached for administrative purposes to the Labor Cabinet or Department of Workers' Claims, as appropriate. The Kentucky Labor Management Advisory Council; State Labor Relations Board; Workers' Compensation Funding Commission; Occupational Safety and Health Standards Board; Prevailing Wage Review Board; Apprenticeship and Training Council; and Employer's Mutual Insurance Authority will be attached to the Labor Cabinet. The Workers' Compensation Advisory Council and the Workers' Compensation Nominating Commission will be attached to the Department of Workers' Claims. The Kentucky Occupational Safety and Health Review Commission and the Workers' Compensation Board—now attached to the Office of the Secretary within EPPC pursuant to KRS 224.10-022—will be attached to the Labor Cabinet and DWC, respectively, for administrative purposes. The Kentucky Employees' Insurance Association, which has been inactive for many years, will be abolished.

The secretary of the Labor Cabinet will replace the secretary of EPPC as a member on the boards of directors of the Workers' Compensation Funding Commission and the Kentucky Mutual Insurance Authority (KEMI). The secretary will also replace the commissioner of the Department of Labor as the chairman of the Occupational Safety and Health Standards Board. The commissioner of the Department of Workplace Standards will replace the executive director of the Office of Workplace Standards as an *ex officio* member of the Apprenticeship and Training Council.

The following is a detailed description of the proposed organizational structures for the offices and departments in the new Labor Cabinet:

A. Labor Cabinet Office of the Secretary:

The commissioner of the Department of Labor will become the secretary of the Labor Cabinet, and the deputy commissioner will become the deputy secretary. These are the only two employees who will receive salary increases as part of this reorganization. The secretary's office will continue to operate with existing personnel, and any additional costs incurred by virtue of the reorganization will be more than offset by the savings realized through eliminating superfluous management positions elsewhere in the cabinet, streamlining organizational structures, and sharing services.

B. Shared Administrative Services:

The Labor Cabinet will continue to share some administrative services with the regulatory agencies now a part of EPPC. General, federal, and restricted agency funds will support the shared services operations, which will be provided through detailed memoranda of agreement executed after the reorganization is effective. GAPS Shared Services and OIG Shared Services will be attached to the Labor Cabinet and used by each of the three cabinets that will replace EPPC: Energy and Environment Cabinet, Labor Cabinet, and Public Protection Cabinet.

GAPS Shared Services and OIG Shared Services will operate essentially the same as the current Office of Administrative and Information Services (OAIS) and Office of Inspector General (OIG), respectively, in EPPC. The Labor Cabinet will retain a separate information technology section and handle its own communication, legislative, and regulatory affairs with existing personnel. The cabinet will have a Division of Management Services to house the cabinet's independent, information technology

functions and to operate as a conduit for processing personnel and fiscal actions.

Wherever feasible, administrative services currently provided at the department level will be consolidated with the other duties performed in GAPS Shared Services, and there will be no duplication in services. No additional costs will be incurred in either GAPS Shared Services or OIG Shared Services as a result of this reorganization.

**1. Office of General Administration and Program Support for Shared Services
(GAPS Shared Services):**

The Office of General Administration and Program Support for Shared Services will continue to perform certain administrative functions that OGIS in EPPC now performs, such as fiscal, payroll, budget, and personnel. GAPS Shared Services will also include an information technology management component, but those services will only be shared and funded between the Energy and Environment Cabinet and the Public Protection Cabinet. The office will be headed by an executive director and have four divisions: Human Resources Management; Fiscal Management; Budgets; and Information Services. These are the same divisions as in EPPC OGIS, except that the Budgets and Auditing Division will be renamed the Budgets Division in GAPS Shared Services.

The Division of Human Resources Management will include the Personnel Branch, Payroll Branch, and Recruiting and Training Branch. The Division of Fiscal Management will contain the Accounting Branch I, Accounting Branch II, and Purchases and Payments Branch. The Division of Budgets will have no branches. Finally, the Division of Information Services will have three branches: Applications Analysis and

Development Branch, Operations and Network Branch, and Geographic Information Branch. GAPS Shared Services will also have an Operations Branch attached to the executive director's office. The only change from the administrative structures in EPPC OIAS is that an additional branch, Accounting Branch II, will be established in the Division of Fiscal Management.

2. Office of the Inspector General for Shared Services (OIG Shared Services):

The Office of the Inspector General for Shared Services attached to the Labor Cabinet will continue with the same personnel, functions, and duties as the Office of Inspector General in EPPC. The office will be headed by an executive director and will have one branch, the Executive and Criminal Investigations Branch, with two sections: the Criminal Investigations Section and the Executive Support Section. This is the same structure under which OIG in EPPC operates.

C. Legal Services:

As a result of the 2003-2004 reorganization, all legal services for the state's regulatory agencies were combined into one office. The former Office of General Counsel in the Labor Cabinet became the Labor Legal Division, and the Office of General Counsel for the Department of Workers' Claims became the Workers' Claims Legal Division, both in the EPPC Office of Legal Services. This reorganization proposes to create the Office of General Counsel for the Labor Cabinet and, within that office, the Office of General Counsel for Workers' Claims to handle all legal issues for the cabinet. Moreover, in order to avoid duplicating services now provided by EPPC and to conserve

resources, the Labor Cabinet may continue to share some legal services with other regulatory agencies through memoranda of agreement. The attorneys in the Office of Legal Services for the Public Protection Cabinet will be available to perform general legal services, such as representation in personnel, board of claims, and civil rights actions, for the Labor Cabinet, as well as for the new Energy and Environment Cabinet.

1. Office of General Counsel for the Labor Cabinet:

The Labor Cabinet will establish an Office of General Counsel, composed of the current Labor Legal Division in EPPC Office of Legal Services, to handle all regulatory legal issues affecting the cabinet and provide some general legal support. Those duties will include prosecuting workplace safety violations; handling legal matters for the boards, commissions, and councils attached to the cabinet; and advising cabinet managers and employees on programmatic, legal issues. A general counsel for the cabinet will report to the secretary.

All personnel, records, equipment, budgets, appropriations, and allotments for the Labor Legal Division in the EPPC Office of Legal Services will be transferred to the Labor Cabinet and assigned to the Office of General Counsel in the Labor Cabinet. Furthermore, the Legal Branch, containing two sections, and the Administrative Branch, with no sections, in the Department of Labor Division of Workers' Compensation Funds (DWCF) will be abolished and their personnel, duties, and budgets reassigned to the Labor Cabinet's Office of General Counsel. The attorneys in the DWCF Legal Branch represent the workers' compensation special fund and the coal workers' pneumoconiosis fund in court proceedings.

2. Office of General Counsel for Workers' Claims

There will also be an Office of General Counsel for Workers' Claims within the Office of General Counsel for the cabinet, which will contain the attorneys and staff currently in the EPPC Office of Legal Services, Worker's Claims Legal Division. That office will be assigned to handle all programmatic legal issues affecting the Department of Workers' Claims. All personnel, records, equipment, budgets, appropriations, and allotments for the Workers' Claims Legal Division in the EPPC Office of Legal Services will be transferred to the Labor Cabinet and assigned to the Office of General Counsel for Workers' Claims within the Office of General Counsel in the Labor Cabinet. The general counsel for workers' claims will report to the cabinet's general counsel for the cabinet. No additional costs will be incurred as a result of this move.

D. Labor Cabinet Division of Management Services:

The Labor Cabinet's Division of Management Services will be attached to the Office of the Secretary and coordinate all internal management and processing functions affecting the cabinet's program areas. The division will also manage the Labor Cabinet's independent, information technology operation, which will not be part of the shared services. The director will advise the secretary on personnel and fiscal matters, as well as serve as a conduit for managing the cabinet's workflow through GAPS Shared Services. There will be no duplication in services between the cabinet's Division of Management Services and GAPS Shared Services. The division will have three branches: the Information Technology Branch, containing the Networking Section, the System Design

and Development Section, and the Imaging Section; the Logistics Branch, including the Processing Section and the Pre-Audit Section; and the Service and Supply Branch, with no sections. Wherever possible, the fiscal and administrative functions currently performed by the employees in DOL Division of Administrative Services will be consolidated into GAPS Shared Services. The employees in the DOL Division of Administrative Services will be transferred to the new Division of Management Services.

E. Department of Workplace Standards:

The Department of Workplace Standards in the Labor Cabinet will undertake the duties now performed by the Office of Workplace Standards (OWS), the Office of Occupational Safety and Health (OOSH), and the Office of Labor-Management Relations and Mediation (OLMRM) in the Department of Labor. Those responsibilities include regulating workplace safety; enforcing wage and hour laws; managing the workers' compensation special fund and coal workers' pneumoconiosis fund; and conducting labor-management mediation and training programs.

As a result of this reorganization, three executive director positions will be abolished, and one commissioner position will be established. The current executive director of OOSH will become the commissioner with no salary increase. The following, four divisions now in the two offices in DOL will be placed under the new department: Division of Employment Standards, Apprenticeship and Training (renamed the Division of Employment Standards, Apprenticeship & Mediation); Division of Occupational Safety and Health Compliance; Division of Occupational Safety and Health Education and Training; and Division of Workers' Compensation Funds. The existing Office of

Labor Management Relations and Mediation will be abolished; its duties and employees will be moved to the Division of Employment Standards, Apprenticeship & Mediation.

1. Division of Employment Standards, Apprenticeship and Mediation:

The current Division of Employment Standards, Apprenticeship and Training enforces wage and hour laws, including minimum wage, overtime, prevailing wage, and child labor standards. The Office of Labor-Management Relations and Mediation in DOL promotes positive working relationships between labor and management in both the public and private sectors. These two entities will be combined into one division entitled the Division of Employment Standards, Apprenticeship and Mediation, headed by a director. There will be two branches, each headed by a manager, with no sections: the Wage and Hour Eastern Branch, and the Wage and Hour Western Branch. This is the same structure now in place in the Division of Employment Standards, Apprenticeship and Training. The position of executive director of OLMRM will be abolished, and the employees in the office will be transferred to the new division and attached to the director.

2. Division of OSH Compliance:

The Division of OSH Compliance enforces Kentucky's occupational safety and health standards, rules, and regulations, including OSH discrimination. There will not be any changes in the structure or personnel assignments in the compliance division, which will continue to be headed by a director and have two branches, each headed by a manager, with no sections: OSH Compliance Safety Branch and OSH Compliance

Health Branch. This is the same organizational structure as the Division of OSH Compliance in the Office of Occupational Safety and Health in the Department of Labor.

3. Division of OSH Education and Training:

This division offers free training, consultation, technical assistance, and partnership programs to employers. It also compiles statistics on workplace injuries and distributes technical and informational publications. The structure will remain the same with no changes in personnel or duties. There will be a director and four branches, each headed by a manager, with no sections: Safety Training & Consultation Branch; Health Training & Consultation Branch; Statistical Services Branch; and Partnership Program Branch. Again, this the same structure as the current division in DOL.

4. Division of Workers' Compensation Funds:

The Division of Workers' Compensation Funds manages payments from the workers' compensation special fund and the coal workers' pneumoconiosis fund. The division, headed by the current director, will be restructured and streamlined to make it more efficient and to eliminate unnecessary branches and sections. Currently, there are three branches, each with sections. Over the last several years, the workload within the division has declined due to changes in the law. Accordingly, the reorganization proposes to reduce the number to one branch, the Payment Branch, headed by a manager with no sections. The Payment Branch is responsible for paying benefits to fund claimants quickly and accurately, as well as maintaining claims and payment records. Employees in the division's Legal Branch, who represent the special fund and the coal

workers' pneumoconiosis fund in legal proceedings, and the Administrative Branch, who do work for the legal staff, will be transferred to the Office of General Counsel for the Labor Cabinet.

F. Department of Workers' Claims:

The Department of Workers' Claims will succeed the Office of Workers' Claims, which administers workers' compensation claims and ensures that employers comply with the insurance, self-insurance, and rehabilitation provisions in KRS Chapter 342. The agency head, administrative law judges, and Workers' Compensation Board members are nominated by a commission, appointed by the Governor, and confirmed by the Senate. KRS Chapter 342 gives the executive director of OWC—who will become the commissioner of the Department of Workers' Claims—authority to oversee the programmatic and administrative functions of the agency.

Just like the cabinet as a whole, DWC will continue to share some legal and administrative services with the other agencies in EPPC. However, information technology will still be done within the Labor Cabinet. Accordingly, the Technical Support Section and the Design and Development Section attached to the executive director's office will remain intact in the commissioner's office. The same personnel currently assigned to perform internal, management, and facility services in the executive director's office will continue to serve the agency within the commissioner's office and will operate under the oversight of the Labor Cabinet's Division of Management Services.

This reorganization proposes to return the office to a department, headed by a commissioner, with four divisions: Claims Processing; Information and Research; Security and Compliance; and Ombudsman and Workers' Compensation Specialist Services. The chief administrative law judge, administrative law judges, and support staff will be attached to the department through the Office of Administrative Law Judges. The Workers' Compensation Board will also be attached to DWC.

1. Division of Claims Processing:

In the new DWC, the Division of Claims Processing will continue with one branch, the Claims Branch, headed by a manager, and five sections headed by supervisors: Appeals, Agreements, Claims Assignment, Claims Review, and Case Files. The Docket Section, which is in the current division in OWC, will be abolished, and the new Claims Review Section will be established to replace the Docket Section. As a result of these changes, half of the employees from the Claims Assignment Section will be moved to the new Claims Review Section. The claims division will continue to process, schedule, and prepare appropriate documentation related to the injury claims.

2. Division of Security and Compliance:

The Division of Security and Compliance will remain intact within the new department. The division will retain its three branches: Coverage, Self-insurance, and Enforcement. The branches handle a variety of matters, including electronic filings for coverage, enforcement investigations, and self-insurance issues.

3. Division of Information and Research:

The Division of Information and Research collects, stores, and retrieves data; it also disseminates information for OWC. The division will remain intact and retain the Records Branch and the Imaging Branch, each headed by a manager. The Records Branch will retain three sections: EDI Section, Data Entry Section, and Research Section. Currently, one section is named the Coding Section; however it will be renamed the EDI Section and retain all of the same personnel. Within the Imaging Branch, an Imaging Section and an Open Records Section will be created and headed by supervisors who will report to the branch manager. The current personnel in the Imaging Branch will be assigned to this section. The employees now in the Open Records Section in the Records Branch will be moved to the Open Records Section in the Imaging Branch.

4. Division of Ombudsman and Workers' Compensation Specialist Services:

The Division of Ombudsman and Workers' Compensation Specialist Services provides constituent services to employees, employers, insurance carriers, and medical providers. The division will remain intact and retain its two branches; however, the branches will be renamed to reflect the activities of each branch more accurately. The Ombudsman Branch will be renamed the Workers' Compensation Specialist Branch. The Specialist Services Branch will be renamed the Medical Services Branch. Within the Medical Services Branch, the Rehabilitation Section and the Provider Relations and Cost Containment Section will remain intact.

5. Office of Administrative Law Judges:

The chief administrative law judge will be the head of the Office of Administrative Law Judges, which will include the other administrative law judges and their support staffs. The chief administrative law judge will report to the commissioner.

6. Workers' Compensation Board:

The Workers' Compensation Board is the final authority in the workers' compensation adjudicatory process. It is currently attached to the Office of the Secretary in EPPC; after the reorganization, it will be attached to the Department of Workers' Claims, as it was before 2004.

FISCAL IMPACT

All current year and future budgeted appropriations and allotments for all organizational units and programs proposed to be within or attached to the new Labor Cabinet will be assigned to the new cabinet on the effective date of the reorganization, June 16, 2008. Additionally, cash balances in the current fiscal year for restricted agency funds, general funds, escrow accounts, and off-budget accounts will be transferred from EPPC to the Labor Cabinet. Finally, all personnel, equipment, records, files, furniture, and other resources related to the new organizational units and programs will be transferred from EPPC to the new Labor Cabinet.

There are three programs currently budgeted elsewhere in EPPC that will be transferred to the new Labor Cabinet: the Workers' Compensation Board; the Labor Legal Division; and the Workers' Claims Legal Division. The Workers' Compensation Board, which is included in the proposed EPPC budget as an independent agency

attached to the cabinet, has nine full-time positions. The amount of restricted agency funds budgeted for the board are \$949,200 and \$969,000 in fiscal years 2009, and 2010, respectively. The Labor Legal Division has 13 full-time positions, and the amount appropriated for FY 2008, is \$857,400. The Workers' Claims Legal Division has six full-time employees, and the amount appropriated for that unit in FY 2008, is \$412,400. No budgeted amounts for FY 2009, and 2010, are available for the two legal divisions; EPPC will provide these amounts so that the divisions' budgets and appropriations can be transferred to the Labor Cabinet.

There are two on-budget agencies that will be transferred and attached for administrative purposes to the Labor Cabinet: the Kentucky Occupational Safety and Health Review Commission (KOSHRC) and the Workers' Compensation Funding Commission (funding commission). The KOSHRC, with seven, full-time positions, is now attached to the Office of the Secretary in EPPC, while the funding commission, with 14, full-time positions, is attached to DOL. EPPC has budgeted \$495,300 in FY 2009, and \$505,800 in FY 2010, for KOSHRC. The amounts for the funding commission are \$107,987,800 and \$108,468,400 for fiscal years 2009, and 2010, respectively. The appropriations, allotments, and personnel for these units will be transferred from EPPC to the new Labor Cabinet.

Only two positions elevated as a result of moving from a department to a cabinet will require increases in salaries and fringe benefits. The commissioner of DOL will become the secretary, and the deputy commissioner will become a deputy secretary. Other positions, such as the executive directors of the Office of Workers' Claims and the Office of Occupational Safety and Health, will be elevated to commissioners but will not

require salary adjustments. The cost for the increased salaries for secretary and deputy secretary will be approximately \$53,874 in FY 2009, and \$54,951 in FY 2010. These amounts will be more than offset by eliminating superfluous management positions and streamlining the organization. The net savings after the reorganization will be \$223,048 for FY 2009, and \$227,509 for FY 2010.

PERSONNEL IMPACT

There will be no lay-off as a result of the reorganization. Unnecessary, vacant, management positions will be abolished, but current employees in DOL, OWC, and the associated organizational units will be transferred to the Labor Cabinet. Only those organizational units which contain P-1 employees will be included on the Structural From/To List. For the most part, the employees will have the same duties and responsibilities, but the organization will be streamlined. Moreover, no new positions will be created; the Labor Cabinet will continue to perform its regulatory duties with existing staff, and the new cabinet will share some administrative and legal services with other regulatory agencies. The cabinet will continue to evaluate positions and assignments with the goal of consolidating more administrative duties into the shared services office as vacancies occur.

The Department of Labor's current personnel cap is 338. The checklist shows 556 positions for the new Labor Cabinet. The 556 includes: six newly authorized positions (which will be filled using current vacancies); three employees from the Department of Public Protection, who will become part of the shared services office; nine Workers' Compensation Board positions; eight OSH Review Commission positions; 18

Workers' Compensation Funding Commission positions; 96 GAPS Shared Services positions coming from EPPC; six positions from OLS Workers' Claims Legal Division; 13 from OLS Labor Legal Division; and the 403 positions that the Department of Labor has, although not all are funded. DOL only has 338 actual authorized positions now, plus the six, newly-authorized ones. Excess positions will be abolished, and cleanup will be done after the reorganization is complete and official caps for each department or division is released from budget personnel for FY 2009. According to EPPC budget personnel, official CAP numbers have not been distributed at this time.

NET BENEFIT

The overall effect of abolishing the Environmental and Public Protection Cabinet and establishing the Labor Cabinet with a more streamlined programmatic structure will be to enhance greatly the services provided to employers and employees in Kentucky. The former Labor Cabinet operated effectively and efficiently, and the current structure has hampered the agency's ability to meet its statutory obligations. Moreover, by implementing a shared services program, the Commonwealth will create a unique organization that will save even more funds and eliminate unnecessary bureaucracy, thereby allowing agencies to concentrate resources on frontline, regulatory activity.