



NEW YORK STATE SENATOR

George Onorato

Senator Onorato Criticizes Worker's Compensation Board For Going Forward With Digital-Audio Recording Pilot Program

GEORGE ONORATO February 3, 2010

| ISSUE: **LABOR**

| COMMITTEE: **LABOR**

NEWS FROM
STATE SENATOR GEORGE ONORATO
Chairman, New York State Senate Committee on Labor

FOR RELEASE: February 3, 2010

CONTACT: Janet K. Kash (518)455-3486 kash@senate.state.ny.us

SENATOR ONORATO CRITICIZES WORKERS' COMPENSATION BOARD FOR GOING FORWARD WITH DIGITAL-AUDIO RECORDING PILOT PROGRAM

Says Board Has No Legal Authority To Pursue Program That Would Replace Stenographers With Digital-Audio Recording Equipment In Some Workers' Compensation Hearings

State Senator George Onorato (D-Queens), the chairman of the New York State Senate Standing Committee on Labor, today took issue with the recent decision by the New York State Workers' Compensation Board to move forward with a digital-audio recording pilot program in violation of state law. Under the plan, the Board is seeking to replace stenographers with recording equipment at some workers' compensation hearings – a move

the Senator contends is not authorized by law, will jeopardize the accuracy of transcripts, and will otherwise compromise workers' compensation proceedings.

“State workers' compensation law clearly requires the use of stenographers to record and transcribe the minutes of workers' compensation hearings and to certify the accuracy of the transcripts,” said Senator Onorato. “Unless the Legislature decides to change this law, which it has not, the Workers' Compensation Board is left without the legal authority to replace stenographers with recording equipment.” The Queens lawmaker also noted that past Executive Budget proposals to implement this program have been rejected by the Legislature.

Last October, the Senate Labor Committee held a public hearing to review the digital-audio recording proposal and to hear testimony from a variety of interested parties. “At the hearing, the Workers' Compensation Board Chairman claimed that the program was being contemplated to address a purported lack of available court reporters, and to possibly provide cost savings to the state,” Senator Onorato said. “However, given that there is an expanding pool of court reporters in New York, and given that no real cost savings information was supplied at or after the hearing by either the Board Chairman or two recording company representatives bidding for the project, these claims do not seem to be supported by the facts.” He further noted that, unlike most other state agencies, the Workers' Compensation Board is primarily funded through assessments on employers. At the hearing, attorneys for employers and insurance carriers, as well as injured workers, uniformly objected to the use of these funds to record hearings by digital-audio recording systems rather than live stenographers.

Witnesses who spoke in opposition to the pilot program cited the malfunctioning of electronic recording systems in other jurisdictions, mistrials that have occurred in other states as a result of missing recording testimony, and the inability of machines to accurately

record concurrent speakers or dialects or to accurately transcribe inaudible testimony. Opponents included representatives of injured workers, insurance carriers, employers, judges and court reporters. Other than the Workers' Compensation Board Chairman, the only other witnesses who testified in favor of the program were representatives of two of the companies who made presentations to the Board last year in hopes of winning the digital-audio recording contract.

“Last month, the Workers' Compensation Board signed a three-year contract to move forward with a program that is both in violation of existing state law and that will further compromise the operation of a workers' compensation system that is already fraught with severe delays and many other serious problems,” said Senator Onorato. “I will continue to oppose this program and fight to protect the integrity of New York's workers' compensation hearing system for workers, employers and all parties who testify in hearings before the Board. Injured workers, who are already facing difficult economic circumstances when they enter the court room, deserve nothing less.”