

David Sichel
Deputy Director of Risk Management Services
Vermont League of Cities and Towns
Testimony on February 4, 2016 on Independent Contractor Issues
Vermont House Commerce and Economic Development Committee

I. Overview of VLCT PACIF and Workers Compensation

- VLCT PACIF provides workers' compensation coverage to 300 Vermont municipalities.
- VLCT PACIF has offered workers' compensation coverage since 1990.
- We put great emphasis on loss prevention and control, including many innovative programs.
- All claims are handled in-house.

II. Overview of VERB and Unemployment Insurance

- VERB provides self-insured unemployment insurance for 230 Vermont municipalities
- Established in 1978.

III. Independent Contractor Issue- Current Challenges

- Confusing and hard to interpret rules.
- Changing interpretations.
- Our members want to do the right thing.
- PACIF conducts workers' compensation payroll audits.
- Should PACIF charge for all independent contractors who do not provide proof of workers' compensation insurance?

IV. Standards Issues

- Like work issue. Municipalities provide a broad range of services. This creates issues.
- Multiple contractors doing the same work.
- Examples
 1. Recreation Programs
 2. Parking Lot Plowing
 3. Roadside Mowing
 4. Building Maintenance
 5. Professional Services- Planning, Accounting, etc.
 6. Animal Control

V. Risk Management Approach

- Entity should decide if they want to outsource work.
- If out sourced do they want to keep or transfer risk?
- If the decision is to keep risk and perhaps exercise more control, then the contractor should be treated as a statutory employee for purposes of workers' compensation.
- If decision is to transfer risk, then an appropriate contract must be executed and proof of necessary insurance must be provided.



- Decision must be made about whether contractor's proof of workers' compensation insurance is an absolute requirement.
- Responsibility for workers' compensation and unemployment insurance should be made clear up front. This is where problems arise with sole proprietor independent contractors.

V. What to do?

- Provide clear definitions of independent contractor status.
- Provide clarity about when an independent contractor is not required to purchase workers' compensation insurance.
- Create a safe harbor for employers that legitimately hire independent contractors who are not required to purchase workers' compensation insurance.
- A state certification system could be a part of the safe harbor mechanism.
- Separate rules may be needed for some industry groups.

