BWC Board of Directors

Board Agenda

Bill Lhota, Chairman

April 25, 2008

William Green Building

Level 2, Room 3

8 a.m. – 12:00 p.m.

Call to order

Bill Lhota, Chair

Roll Call

Tom Woodruff, Scribe

Bill Lhota, Chair

- Approval of minutes of the March 28, 2008 Board meeting
- Approval of minutes of the March 27, 2008 Joint Committee meeting
- Review meeting agenda

Committee Reports

Actuarial Committee

Chuck Bryan, Committee Chair

- Rules: Chapter 4123-1735: Public Employer State Agency Rate
  Chapter 4123-17-33.1 PEC Credibility Table

Audit Committee

Ken Haffey, Committee Chair

- Rules: Chapter 4123-1-01: Notice Provisions
  Chapter 4123-6-31 and 4123-7-14:
  Payment for Acupuncture - *first consideration*
  Chapter 4123: 1-3: Construction Rule

Governance Committee

Alison Falls, Committee Chair

- Purpose statement for Ad Hoc Legal Affairs Committee

Investment Committee

Bob Smith, Committee Chair

- Recommendation of Investment Manager for Public Work-Relief Employees' Fund and Marine Industry Fund ancillary trust fund accounts

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Monthly Financial Report

Tracy Valentino, Chief
Fiscal & Planning Division

Administrator Briefing

Marsha P. Ryan, Administrator

"Deep Dive"

MCO Program Review

George C. Smith, Executive Director, MCO League of Ohio

Adjourn Board Meeting

* Consideration and possible vote

Next meeting: May 30, 2008, 8:00 am – 12:00 pm, Wm. Green Building, L2, Room 3

BWC Board of Directors
Thursday, March 27, 2008, 9:30 AM

Ohio Center for Occupational Safety and Health
Conference Room B
13430 Yarmouth Drive
Pickerington, OH 43147

Members Present:	William Lhota, Chairman James Harris, Vice Chairman Charles Bryan Alison Falls Philip Fulton Jim Matesich Larry Price David Caldwell
Members Absent:	Robert Smith Ken Haffey

Call to order

Mr. Lhota called the meeting to order at 9:35 am, Thursday, March 27, 2008. Roll call was taken by the scribe, Tom Woodruff. All members were present except for Ken Haffey and Bob Smith.

Board Training March 27, 2008

House Bill 100 mandated training continued Thursday morning.

Presentation was made by Joy Bush, Executive Director of Employer Management Services on the subject of central safety services, including loss prevention efforts. A power point presentation was included, and is incorporated into the minutes. Mark Garver and Jerry Anderson participated in the presentation. The Safety and Hygiene Department is subsidized by a separate fund, as provided by the Ohio Constitution. The department has approximately 156 employees. Philip Fulton inquired as to a ten year staffing trend for the department. Ms. Bush stated that the department has had the same funding for personnel over the years, therefore, staffing has remained stable, with the maximum being around 175-180 people. Mark Garver, Safety and Hygiene Superintendent, further discussed courses offered by the department. Ms. Falls inquired as to how courses were picked. Mr. Garver indicated they are determined by field feedback, changes in standards and class evaluations. Web based training is now available. Mr. Harris asked for examples of vendors used for classes. Examples are basic construction and confined space. Specific certifications are needed to teach the classes. Discussion was made of the Ohio Safety Congress, which is the largest regional congress. It is being held April 1 through April 3. There has been a growth of safety councils and associated discount programs. Publications are to supplement safety programs. The department has two libraries for external and internal customers. Discussion was made of OSHA onsite consultation versus PERRP.

Mr. Lhota inquired as what happens when a serious hazard is identified. Mr. Garver indicated that they meet with the employer, enter into an agreement to eliminate the hazard, and follow up to see that the elimination has been made.

Discussion was made of Ms. Ryan's objectives, including engaging employers with poor safety records, measuring results, reducing frequency and cost, developing best practices, and preferred customer market matters. Mr. Fulton inquired as to whether or not the Bureau contacts employers who are found to have committed a violation of a specific safety requirement. Mr. Garver stated yes. Mr. Harris inquired as to whether or not the Bureau goes in to meet with these employers post accident. Mr. Garver stated that the Bureau has no right of entry, but tries to work with these employers. Mr. Matesich inquired as to whether there was a penalty for assistance refusal. Mr. Garver stated no.

There is currently an emphasis being placed on fall protection and trenching. Mr. Lhota inquired as to whether or not the department renders services to self insuring employers. Mr Garver responded generally no, but consulting services are available. Discussion was made of the OSHA Alliance for staffing agency issues. Mr. Harris raised the issue to as whether or not there was confusion with regard to record keeping, or if agencies were avoiding record keeping and premium payment. Mr. Garver indicated that employer compliance is working to resolve this issue. Mr. Caldwell made the point that it is not whether or not someone is liable, but who is liable. Ms. Bush indicated that the Bureau investigates employer noncompliance and assesses premiums.

Jerry Anderson, Youngstown service office manager discussed field safety services for the fifteen offices. Discussion was made of consultant specialists, including loss prevention strategy, and the process for hazard assessment. Ergonomists are used by the Bureau to identify and eliminate risk factors. Mr. Lhota inquired as to the relationship between Safety & Hygiene and the auto research facility. Mr. Garver stated that it was unknown. Industrial hygienists prevent occupational diseases, and conduct air and noise sampling surveys. Mr. Harris inquired as to how many BWC personnel have safety and hygiene backgrounds. Ms. Bush stated many do. Mr. Price would like to see data on safety and hygiene successes and look for improvement. Ms. Bush responded that she had case studies of prior success stories that could be made available to the Board. These case studies will show that where investments are made for safety, employers have reduced the rate of injury. Mr. Matesich stated that if an employer can see gains from safety and hygiene investment, and this information is shared, then employers can see reductions in their premiums.

Recess:

The meeting was recessed by Mr Lhota, at 11:10 am.

BWC Board of Directors

Friday, March 28, 2008, 8 AM

Ohio Center for Occupational Safety and Health
Conference Room B
13430 Yarmouth Drive
Pickerington, OH 43147

Members Present:	William Lhota, Chairman James Harris, Vice Chairman Charles Bryan Alison Falls Philip Fulton James Hummel Jim Matesich Robert Smith Kenneth Haffey Larry Price David Caldwell
Members Absent:	None
Others Present:	Ronald O'Keefe, Fiduciary Counsel John Williams, Assistant Attorney General

Call to order

Mr. Lhota reconvened the meeting at 8:00 am.

Roll call

Roll call was taken and all members were present.

Minutes of Feb. 29, 2008 Meeting

Upon motion by Mr. Fulton and seconded by Mr. Price, the minutes, were approved 11-0.

Upon motion by Mr. Price, seconded by Mr. Harris, the meeting agenda was modified to reflect that subsequent to the Administrator's briefing, the Board would enter into executive session. Subsequent to coming out of executive session, the Board meeting would be adjourned and the Board members would take a guided tour of the OCOSH facility. Roll call was taken. The motion passed 11-0.

Mr. Matesich stated that based upon a letter of opinion, and advice from fiduciary counsel, Ron O'Keefe, there is no conflict of interest with respect to Mr. Matesich's Board membership, and his Board membership with the Wholesale Beer and Wine Association.

If any issue arises, Mr. Matesich shall recuse himself from voting and deliberating on that particular issue. Mr. Matesich has resigned his Board membership with the Ohio Association of Wholesale Distributors.

COMMITTEE REPORTS

Actuarial Committee:

Mr. Bryan reported on committee matters. The committee held a meeting Wednesday, March 26, 2008, for an educational session. Thursday, a meeting was held to discuss private and public employer rate matters. A 5% decrease for public employer rates was deferred to April. MIRA II July 1, 2008 implementation was discussed. There will be additional reports in April. A motion was made by Mr. Bryan and seconded by Mr. Hummel, as follows: that the Bureau of Workers' Compensation Board of Directors consents to the Administrator fixing private employer rates beginning July 1, 2008, to achieve an overall five percent decrease in the total collectible premium rate from the previous year. This motion also consents to the Administrator preparing private employer rate rules consistent with this policy. Following a roll call vote, the motion passed 11-0.

Audit Committee:

Ken Haffey discussed Audit Committee matters. The committee, along with James Barnes, BWC General Counsel, and Don Berno, Board Liaison, reviewed a form to assist the Board with understanding the five year rule reviews. Tom Sico, BWC Associate General Counsel reviewed the form as well. Two rules were acted upon.

Motion was made by Mr. Haffey, and seconded by Mr. Fulton, as follows: that the Bureau of Workers Compensation Board of Directors approve changes to the public employment risk reduction program rules of Chapter 4167 of the Administrative Code pursuant to the five year rule review. This motion consents to the Administrator retaining twenty rules, amending nineteen rules, and rescinding fourteen rules of Chapter 4167 as presented here today. Following a roll call vote, the motion passed 11-0.

Further action on 4123:1-3 construction rules was tabled for next month's meeting.

Mr. Haffey met with Deloitte-Touche, and Joe Bell, Director of Internal Audit. Mr. Bryan inquired as to the process of internal audit. Mr. Haffey indicated that the Bureau internal audit process remains unchanged, as Mr. Bell has been involved in it from the beginning.

Governance Committee:

The ethics disclosure form was discussed, to ensure compliance with ethics requirements. An opinion, with regard to any potential conflicts of interest with regard to trade associations and fiduciary responsibilities on Boards was discussed. Members were advised to include all Board memberships when completing Question 7 of the Financial Disclosure form.

A motion was made by Ms. Falls and seconded by Mr. Price as follows: that the Bureau of Workers Compensation Board of Directors, approve the Administrator evaluation process as outlined with the February 26, 2008 memorandum, and the form attached to the memorandum. It was agreed that Board members would use the broad interpretation of Question 7 in the Financial Disclosure statement and disclose all board memberships.

Following a roll call vote, the motion passed 10-0. Mr. Fulton abstained from the voting process.

Investment Committee:

Mr. Smith reported that the committee is beginning a six to eight month process of evaluating investment strategy. Mr. Smith thanked Ms. Falls for chairing the Investment Committee meeting, Thursday, in his absence. Mr. Smith stated the Committee had a good review of changes in the portfolio valuation over the past month and the year-to-date. There was also a discussion of the role of investment risk tolerance.

Joint Investment and Actuarial Committee:

There was discussion on the joint meeting the committee held with the Actuary Committee. Ms. Ryan discussed the discount rate presentation, noting that it was a robust discussion. Everyone has a solid understanding of the role the discount rate plays in formulating strategy. With a 5% discount rate there will be minimum fluctuation in the rate from year to year, prudent consideration of investment returns, and a focus on organizational goals. Ms. Falls stated that the 5% discount rate is a prudent decision. Motion was made by Ms. Falls, and seconded by Mr. Bryan as follows: that the Bureau of Workers Compensation Board of Directors approve and adopt the Administrator's recommendation that a 5% discount rate be selected for the rate year beginning July 1, 2008. Following a roll call vote, the motion passed 11-0.

MONTHLY FINANCIAL REPORT

Tracy Valentino, Chief of Fiscal and Planning, presented to the Board. A power point presentation was included, and is incorporated by reference, into the minutes. Cash collections are substantial in January, February, July and August, as premium billing is twice per year. Mr. Bryan inquired as to the liability associated with the hospital case (provider reimbursement schedule). Mr. Barnes spoke briefly on the issue. The Bureau must pay the difference between the pre October 2005 rate and the post October 2005 rate. The difference represents a liability recorded by the Bureau. Mr. Bryan expressed concern over operating loss. Ms. Valentino indicated that liability and assets have been discounted, and BWC counts on investment income to balance the operation. Ms. Valentino explained that part of the operating loss as of February 29, 2008 occurred from the reduction in premiums collected from state agencies. Operating loss is not as important as the operating ratio. Other financial statements were discussed by Ms. Valentino.

ADMINISTRATOR BRIEFING

Information with regard to the April 2008 public forum is available on the web. This shall be a robust forum on provider issues. With respect to legislation, the Coal Workers' Pneumoconiosis Fund allocation to the mine safety program is supported by the governor. This legislation will allocate interest on the Coal Workers' Pneumoconiosis Fund to the Ohio Department of Natural Resources for mine safety. Legislation has not yet been introduced. The Bureau may need to develop rules to implement any possible legislation. There should be a comment period for the Board. According to the Chief Actuarial Officer, John Pedrick, the fund is well-funded. There may be a one to two week timeframe for getting materials to directors. Ms. Falls wants information on the undiscounted asset value of the fund. Mr. Price is interested in who the sponsor may be. Further, Mr. Price wants the bill and analyses of bills when they become available. Mr. Harris supports the intent of the legislation; however, he emphasizes the importance of safety to prevent serious accidents, as the American coal industry increases production to meet world demand. Mr. Fulton emphasized the importance of paying close attention to uncodified sections of legislation to avoid using the fund as a rainy day fund.

Upon motion by Mr. Lhota, seconded by Mr. Harris, the Board entered into executive session, to discuss pending litigation with representatives of the Attorney General's office, and to discuss Bureau personnel matters. Roll call was taken, and the motion passed 11-0.

There was a motion by Director Lhota to come out of executive session. This motion was seconded by Director Harris.

Roll call: 11-0 in favor of going back into regular session.

Mr. Lhota asked that the record reflect that Mr. Fulton was not present for the executive session.

Mr. Fulton asked the Board of Directors to motion to request a formal opinion from the Attorney General asking whether the Administrator has discretion to make charges to the state insurance fund. Mr. Fulton stated the reason for this request was to seek legal advice from the Attorney General to protect the Board of Directors and the Administrator from potential problems which might occur with employers whose risk accounts are charged due to the Ohio Hospitals Association settlement with BWC. Mr. Fulton indicated that he strongly believes that the Administrator has the authority to make decisions regarding charges to employers' accounts. Mr. Fulton made reference to former BWC Administrator Young's treatise on workers' compensation and Young's belief that the Administrator has this legal authority. BWC Chief Legal Counsel Barnes cautioned the Board of Directors to be careful to not speak of pending litigation unless the Board of Directors is in executive session.

Ms. Falls asked Administrator Ryan if she thought a formal Attorney General opinion would be beneficial to the Board of Directors. Administrator Ryan stated that in many instances a formal opinion from the Attorney General would be helpful, but she could not predict whether it would be helpful in this specific case. Administrator Ryan emphasized that she wanted to make sure that she followed the law in making these types of decisions. Mr. Barnes indicated that a formal legal opinion may take two to four months for the Opinions Section of the Attorney General's office to complete.

Mr. Price asked Mr. Barnes whether an informal Attorney General opinion is binding. Mr. Barnes indicated that informal opinions are issued by the Attorney General in a shorter period of time than a formal legal opinion. Assistant Attorney General Williams indicated that an informal legal opinion would entail slightly less research than a formal legal opinion but that a formal Attorney General opinion would go to the Opinions Section of the Attorney General's office and would entail detailed research. Mr. Barnes indicated that the research is the same, so the informal opinion should not differ from the formal legal opinion of the Attorney General. Mr. Barnes also indicated that BWC had already obtained guidance from the Attorney General on this issue.

Mr. Matesich asked if the Attorney General's opinion would contain advocacy by the Attorney General's office. Mr. Barnes indicated that the Attorney General would offer an independent review of the law.

Mr. Fulton made a motion which was seconded by Mr. Caldwell which would allow the Board of Directors to delegate authority to Mr. Lhota to ask the Attorney General to research Mr. Fulton's request regarding the authority of the Administrator to make charges to the State Insurance Fund. Mr. Lhota, Mr. Fulton and the Administrator will work on the specific language of the request.

A roll call vote was taken, and the motion carried by an 11 – 0 vote.

Adjournment

There was a motion to adjourn at 1:20 p.m. by Mr. Caldwell, which was seconded by Mr. Harris.

Minutes taken by Tom Woodruff, BWC Staff Counsel and Ellen Wentzel,
BWC Legal Counsel

BWC Board of Directors

Joint meeting Actuary & Investment Committees

Thurs., March 27, 2008, 1:00 PM

Ohio Center for Occupational Safety and Health
Conference Room B
13430 Yarmouth Drive
Pickerington, OH 43147

Members Present: Alison Falls, Vice Chair of Investment Committee
David Caldwell
James Harris
Larry Price
William Lhota, ex officio member
Charles Bryan, Chair of Actuary Committee
Jim Hummel
Jim Matesich
Philip Fulton

Other Members Present:

Ken Haffey

Call to order of the joint session of Actuary and Investment Committee

Alison Falls, Vice Chair of the Investment Committee, called a joint meeting of the Actuarial Committee and Investment Committee at 1:00 p.m. and the roll call was taken. Director Bob Smith joined the meeting by telephone.

Discussion item: Setting the discount rate

Mr. Bryan stated that the discount rate is used to calculate liabilities and to set rates for manual classifications. The current rate is 5% and the past rate was 5.25%. Determination of the discount rate determines whether premiums should be higher or lower.

Marsha Ryan, BWC Administrator, reported that the Industrial Commission began using a discount rate at least thirty years ago. Using a discount rate is a matter of discretion and not explicitly set forth in the Ohio Revised Code. The external audit of the financial statements and the actuarial audit review the discount rate for reasonableness and appropriateness. Private insurance companies do not use a discount rate. Some State Insurance Funds use a discount rate, some do not. Mercer Consulting has produced a white paper on the discount rate. It suggests three approaches to setting it.

Ms. Ryan further reported that the goal of this session is to solidify understanding of the role and function of the discount rate and to share BWC staff opinions on the discount rate. For the policy year beginning July 1, 2008, BWC is recommending that the discount rate be set equal to and no more than 5%. Ms. Ryan reviewed the relationship of the discount rate to items on the balance sheet; what the discount rate is and is not; the goals of using a discount rate; the history of setting of the rate; and the decline of the discount rate from 7% to 5% since 1997.

Tracy Valentino, Chief of Fiscal & Planning Division, reported that BWC relies upon Government Accounting Standards Board Statement 10 (GASB 10) in setting the discount rate. GASB 10 does not require a discount rate, but sets compliance standards. Bruce Dunn, Chief Investment Officer, reported that, as a point of reference, the average yield on a thirty-year treasury note—for the five year ending in June 30, 2007—was 4.859%. Inflation over that period of time was about 3%.

John Pedrick, Chief Actuary, reported on the relationship of the discount rate to risk and liability. The State Insurance Fund (absent ancillary funds) has assets of $18 billion as of June 30 31, 2007. If the discount rate is set at zero, the liabilities of the State Insurance Fund are $30 billion exclusive of any new injuries and premium income. The 5% discount rate yields a surplus of $2.1 billion. Jeffery Scott, Oliver Wyman, stated that his firm sets liabilities by assuming an indemnity rate of growth of zero and a medical inflation rate of 9%.

Mr. Fulton asked why the Industrial Commission raised the discount rate in 1980 from 5% to 7%. Ms. Valentino stated the financial statements of the time did not state why. However, there was a deficit in the State Insurance Fund at the time and the change removed the deficit.

Ms. Ryan reported that the next steps are in setting the discount rate for the policy year July 1, 2008. The trend is to set it at less than 5%, but certainly not increase the discount rate over 5%. Subsequently, BWC will complete the catastrophic analysis for the next policy year using information from the Deloitte Study and other studies. BWC will also examine the discount rate annually. To achieve stability, it should be set at 5%. Both Mr. Lhota and Ms. Falls stated that the goal of setting the discount rate should be not to exceed highly dependable investment returns over long periods of time.

Mr. Bryan asked Ms. Ryan if she was seeking advice and consent and a vote from the Workers' Compensation Board, or was the current joint committee meeting just a presentation and request for feedback. Ms. Ryan replied that she would welcome a vote.

Mr. Bryan moved that the BWC Board of Directors approve and adopt the Administrator’s recommendation that a five percent (5%) discount rate be selected for the rate year beginning July 1, 2008. Mr. Matesich seconded and the motion was approved by a roll call vote of nine ayes and no nays.

Adjournment of the Joint Session

There was a motion by Mr. Matesich, second by Mr. Hummel, and adjournment of the joint session by Ms. Falls. Mr. Bryan recessed the Actuarial Committee until 2:30 p.m.

Prepared by: Larry Rhodebeck, Staff Counsel
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March 30, 2008

Financial**Report**

April ’08

Ohio Bureau of Workers’ Compensation

Printed within BWC

Financial **Report**

April ’08

Managment’s Discussion and Analysis

This section presents management’s discussion and analysis of the Ohio Bureau of Workers’ Compensation’s (BWC’s) financial performance for fiscal year to date ended March 31, 2008.

Fiscal Year-to-Year Comparisons

- BWC’s total assets at March 31, 2008 were $22.8 billion, an increase of $2.3 billion or 11.3 percent compared to March 31, 2007.
- BWC’s total liabilities at March 31, 2008 were $20.4 billion, an increase of $522 million or 2.6 percent compared to March 31, 2007.
- BWC’s operating revenues for fiscal year to date March 31, 2008 were $1.7 billion, a decrease of $157 million or 8.5 percent compared to fiscal year to date March 31, 2007.
- BWC’s operating expenses for fiscal year to date 2008 were $2.5 billion, an increase of $511 million or 25.3 percent from fiscal year to date March 31, 2007.
- BWC net investment income for fiscal year to date March 31, 2008 totaled $993 million, comprised of $623 million of interest and dividend income and $380 million in higher portfolio fair market value reduced by $10 million of investment expenses.
- BWC’s total net assets have increased by $1.8 billion since March 31, 2007.

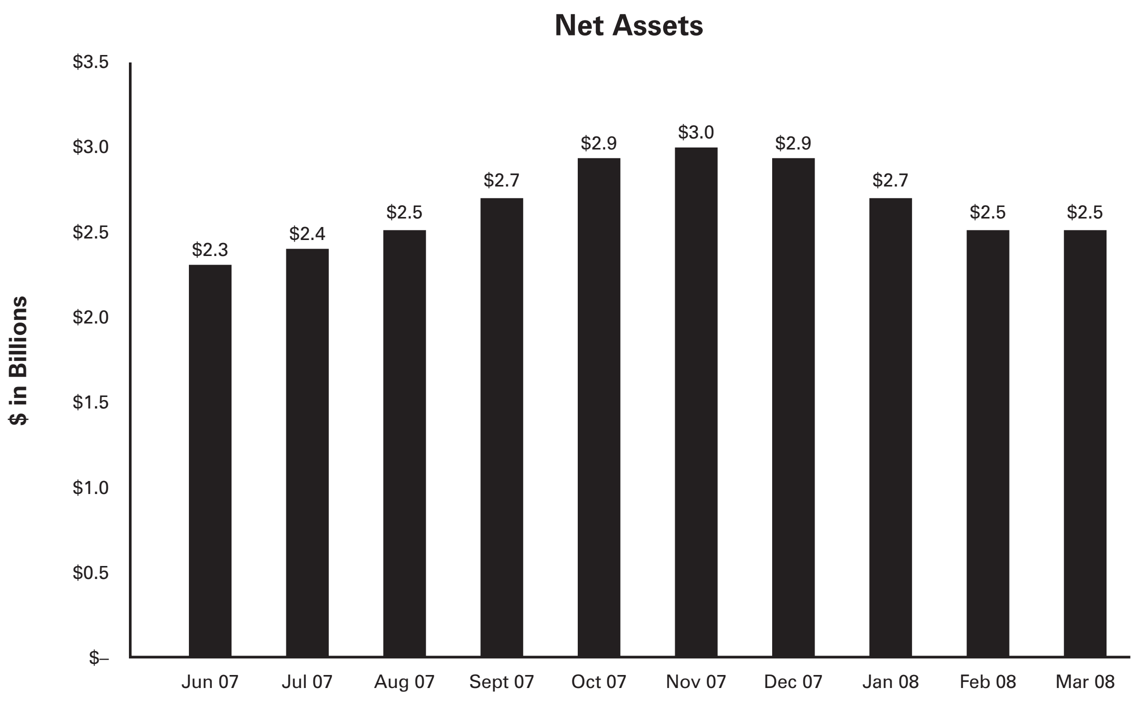
March Financial Analysis

BWC’s net assets declined by $72 million in March 2008 resulting in net assets of $2.461 billion at March 31, 2008 compared to $2.533 billion at February 29, 2008.

($ in millions)	**Fiscal YTD** Feb. 29, 2008	**Month Ended** March 31, 2008	**Fiscal YTD** March 31, 2008
Operating Revenues	$ 1,509	$ 182	$ 1,691
Operating Expenses	2,267	262	2,529
Net Operating Loss	(758)	(80)	(838)
Net Investment Income	985	8	993
Increase (Decrease) in Net Assets	227	(72)	155
Net Assets End of Period	$ 2,533	$ 2,461	$ 2,461

- Premium and assessment income continues to trend 12 percent less than projected and 8 percent lower than the prior fiscal year primarily due to lower than expected losses for state agency and self-insured employer groups.
- The quarterly review of the reserves for uncollectible accounts receivable resulted in a $20 million charge to operating revenues. The reserve is based on a review of aged accounts receivables and takes into consideration the collection probability for the 43,617 private employer accounts that lapsed effective March 1.
- Penalties of $7.8 million were billed to private employers for the late reporting and payment of payroll premiums.
- Claim payments issued in March were $175 million. Fiscal year-to-date 2008 claim payments have increased by $77 million, primarily due to increased claim settlements. Settlement activities should generate long-term savings by lessening future claim payments.
- Favorable developments in reserve projections, based on payment trends through December 31, 2007, are contributing to the favorable variance to projected expenses.

- A decrease in the discount rate from 5.25 percent to 5.0 percent is a major factor in the $512 million increase in benefit and LAE expenses compared to the prior fiscal year. As the discount rate decreases, reserves increase, and expenses increase.
- Interest and dividend investment income in March of $81 million slightly exceeded the reduction in portfolio fair market value of $71 million for the month, resulting in net investment income of $8 million for the month after investment expenses.
- Net investment income of $8 million in March and $993 million for fiscal year-to-date 2008 has off-set operating losses, leading to the growth in net assets.
- The semi-annual payment on the William Green Building bonds issued by the Ohio Building Authority reduced the principal of bonds payable by $15.1 million, leaving debt of $96 million at March 31, 2008. The bond debt will be retired in 2014.
- Cash provided by operating activities continues to be lower than projected due to 4 percent lower premium payments and increased claim settlements and employer refunds for safety council and premium discount program incentives.
- Cash provided by operating activities continues to trend higher than the prior fiscal year-to-date. Premium collections have increased as a result of the 3.9 percent private employer premium rate increase that first impacted collection patterns in January 2007. Disbursements in fiscal year 2007 include $45 million in payments made in settlement of the Santos subrogation case.



Conditions expected to affect financial position or results of operations include:

- Cash disbursements will increase as payments are made to settle the $73 million liability resulting from the Ohio Hospital Association lawsuit disputing fee schedules that were not adopted through the Ohio Revised Code Chapter 119 rules process. Payments started in March with $3.4 million disbursed.
- Adjustments will be made in April to the reserves for compensation and compensation adjustment expenses based on review of payment trends through March 31, 2008 by BWC's actuarial consultants.
- Receivables are expected to decline as the second installment from employers participating in the 50/50 payment plan is due by May 1.

Statement of **Operations**

Fiscal year to date March 31, 2008

(in millions)	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Total operating revenues	$ 1,691	$ 1,942	$ (251)	$ 1,848	$ (157)
Total operating expenses	2,529	2,679	150	2,018	511
Net operating gain (loss)	(838)	(737)	(101)	(170)	(668)
Net investment income	993	446	547	958	35
Increase (decrease) in net assets	155	(291)	446	788	(633)
Net assets beginning of period	2,306	2,306	–	(127)	2,433
Net assets end of period	$ 2,461	$ 2,015	$ 446	$ 661	$ 1,800

Statement of **Operations**

➤➤ Fiscal year to date March 31, 2008

(in millions)	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Operating revenues					
Premium & assessment income	$ 1,732	$ 1,972	$ (240)	$ 1,883	$ (151)
Provision for uncollectibles	(56)	(41)	(15)	(50)	(6)
Other income	15	11	4	15	–
Total operating revenues	1,691	1,942	(251)	1,848	(157)
Operating expenses					
Benefits & compensation adj. expense	2,460	2,608	148	1,948	512
Other expenses	69	71	2	70	(1)
Total operating expenses	2,529	2,679	150	2,018	511
Net operating gain (loss)	(838)	(737)	(101)	(170)	(668)
Investment income					
Interest and dividend income	623	611	12	611	12
Realized & unrealized capital gains (losses)	380	(154)	534	354	26
Investment manager and operational fees	(10)	(11)	1	(7)	3
Gain (loss) on disposal of fixed assets	–	–	–	–	–
Net investment income	993	446	547	958	35
Increase (decrease) in net assets	155	(291)	446	788	(633)
Net assets beginning of period	2,306	2,306	-	(127)	2,433
Net assets end of period	$ 2,461	$ 2,015	$ 446	$ 661	$ 1,800

Statement of **Operations - Combining** Schedule

Fiscal year to date March 31, 2008

(in thousands)	State Insurance Fund account	Disabled Workers' Relief Fund account	Coal-Workers Pneumoconiosis Fund account	Public Work-Relief Employees' Fund account	Marine Industry Fund account	Self-Insuring Employers' Guaranty Fund account	Administrative Cost Fund account	Totals
Operating revenues								
Premium & assessment income	$ 1,346,846	$ 107,796	$ 1,074	$ 61	$ 602	$ 759	$ 274,783	$ 1,731,921
Provision for uncollectibles	(51,378)	(1,754)	–	–	–	(42)	(2,760)	(55,934)
Other income	13,355	–	–	–	–	–	1,523	14,878
Total operating revenues	1,308,823	106,042	1,074	61	602	717	273,546	1,690,865
Operating expenses								
Benefits & compensation adj. expense	2,134,855	99,765	857	413	488	452	223,102	2,459,932
Other expenses	13,471	387	78	2	53	2	55,155	69,148
Total operating expenses	2,148,326	100,152	935	415	541	454	278,257	2,529,080
Net operating income (loss) before operating transfers out	(839,503)	5,890	139	(354)	61	263	(4,711)	(838,215)
Operating transfers out	(2,538)	–	–	–	–	–	2,538	–
Net operating income (loss)	(842,041)	5,890	139	(354)	61	263	(2,173)	(838,215)
Investment income								
Investment income	568,787	40,235	8,554	682	500	1,729	2,550	623,037
Bonds - realized & unrealized gains (losses)	787,273	40,043	8,937	50	36	–	–	836,339
Equities - realized & unrealized gains (losses)	(426,706)	(24,383)	(5,499)	–	–	–	–	(456,588)
Total realized & unrealized capital gains (losses)	360,567	15,660	3,438	50	36	–	–	379,751
Investment manager and operational fees	(9,088)	(97)	(43)	–	–	–	–	(9,228)
Gain (loss) on disposal of fixed assets	–	–	–	–	–	–	(60)	(60)
Total non-operating revenues, net	920,266	55,798	11,949	732	536	1,729	2,490	993,500
Increase (decrease) in net assets (deficit)	78,225	61,688	12,088	378	597	1,992	317	155,285
Net assets (deficit) beginning of period	2,080,045	800,185	171,741	18,295	13,802	6,208	(784,730)	2,305,546
Net assets (deficit) end of period	$ 2,158,270	$ 861,873	$ 183,829	$ 18,673	$ 14,399	$ 8,200	$ (784,413)	$ 2,460,831

Statement of **Investment Income**

Fiscal year to date March 31, 2008

	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Investment income					
Bond interest	$ 554,698,985	$ 554,500,000	$ 198,985	$ 560,929,550	$ (6,230,565)
Dividend income (dom & int'l)	45,825,475	43,200,000	2,625,475	13,183,103	32,642,372
Money market/ commercial paper income	14,732,857	9,360,000	5,372,857	17,353,318	(2,620,461)
Misc. income (corp actions, etc.)	3,858,697	2,700,000	1,158,697	2,794,588	1,064,109
Private equity	3,920,508	700,000	3,220,508	13,292,151	(9,371,643)
Securities lending income, net of fees	–	–	–	3,729,939	(3,729,939)
Total investment income	623,036,522	610,460,000	12,576,522	611,282,649	11,753,873
Realized & unrealized capital gains and (losses)					
Bonds - Net realized gains (losses)	(67,173,203)	–	(67,173,203)	7,216,878	(74,390,081)
Bonds - Net unrealized gains	903,512,729	(314,500,000)	1,218,012,729	336,810,831	566,701,898
Subtotal - bonds	836,339,526	(314,500,000)	1,150,839,526	344,027,709	492,311,817
Stocks - Net realized gains (losses)	42,407,249	–	42,407,249	(879,582)	43,286,831
Stocks - Net Unrealized gains (losses)	(449,408,313)	160,920,000	(610,328,313)	(21,075,419)	(428,332,894)
Subtotal - stocks	(407,001,064)	160,920,000	(567,921,064)	(21,955,001)	(385,046,063)
Net gain (loss) - PE	(49,586,948)	–	(49,586,948)	31,790,807	(81,377,755)
Change in portfolio value	379,751,514	(153,580,000)	533,331,514	353,863,515	25,887,999
Investment manager & operational fees	(9,228,712)	(10,875,000)	1,646,288	(7,328,778)	1,899,934
Net investment income	$ 993,559,324	$ 446,005,000	$ 547,554,324	$ 957,817,386	$ 35,741,938

Statement of **Net Assets**

As of March 31, 2008

(in millions)	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Assets					
Bonds	$ 13,939	$ 13,488	$ 451	$ 13,363	$ 576
Stocks	3,242	3,372	(130)	2,474	768
Private equities	21	–	21	448	(427)
Cash & cash equivalents	552	428	124	716	(164)
Total cash and investments	17,754	17,288	466	17,001	753
Accrued premiums	4,272	4,339	(67)	2,952	1,320
Other accounts receivable	415	449	(34)	318	97
Investment receivables	286	183	103	126	160
Other assests	115	114	1	123	(8)
Total assets	$ 22,842	$ 22,373	$ 469	$ 20,520	$ 2,322
Liabilities					
Reserve for compensation and compensation adj. Expense	$ 19,916	$ 20,061	$ 145	$ 19,175	$ 741
Accounts payable	56	60	4	43	13
Investment payable	120	–	(120)	–	120
Other liabilities	289	237	(52)	641	(352)
Total liabilities	20,381	20,358	(23)	19,859	522
Net assets	$ 2,461	$ 2,015	$ 446	$ 661	$ 1,800

Statement of **Net Assets - Combining** Schedule

As of March 31, 2008

(in thousands)	State Insurance Fund account	Disabled Workers' Relief Fund account	Coal-Workers Pneumoconiosis Fund account	Public Work-Relief Employees' Fund account	Marine Industry Fund account	Self-Insuring Employers' Guaranty Fund account	Administrative Cost Fund account	Eliminations	Totals
Assets									
Bonds	$ 12,815,231	$ 929,327	$ 194,991	$ –	$ –	$ –	$ –	$ –	$ 13,939,549
Stocks	2,989,624	205,626	47,037	–	–	–	–	–	3,242,287
Private equities	20,814	–	–	–	–	–	–	–	20,814
Cash & cash equivalents	439,510	12,027	2,157	22,425	16,632	57,011	1,910	–	551,672
Total cash and investments	$ 16,265,179	$ 1,146,980	$ 244,185	$ 22,425	$ 16,632	$ 57,011	$ 1,910	$ –	$ 17,754,322
Accrued premiums	1,728,467	1,642,506	–	250	–	678,525	221,879	–	4,271,627
Other accounts receivable	315,739	27,767	–	(2)	–	1,901	69,475	–	414,880
Interfund receivables	13,274	63,163	504	26	48	1,739	67,462	(146,216)	–
Investment receivables	263,439	18,463	4,365	57	42	135	–	–	286,501
Other assets	25,665	22	–	–	–	–	89,175	–	114,862
Total assets	$ 18,611,763	$ 2,898,901	$ 249,054	$ 22,756	$ 16,722	$ 739,311	$ 449,901	$ (146,216)	$ 22,842,192
Liabilities									
Reserve for comp and comp adj. Expense	$ 15,991,805	$ 2,015,517	$ 62,273	$ 4,055	$ 2,029	$ 728,867	$ 1,111,126	$ –	$ 19,915,672
Accounts payable	56,173	–	–	–	–	–	96,417	–	152,590
Investment payable	107,720	9,675	2,173	–	–	–	–	–	119,568
Interfund payables	132,007	11,836	70	28	31	2,244	–	(146,216)	–
Other liabilities	165,788	–	709	–	263	–	26,771	–	193,531
Total liabilities	16,453,493	2,037,028	65,225	4,083	2,323	731,111	1,234,314	(146,216)	20,381,361
Net assets	$ 2,158,270	$ 861,873	$ 183,829	$ 18,673	$ 14,399	$ 8,200	$ (784,413)	$ –	$ 2,460,831

Statement of **Cash Flows**

Fiscal year to date March 31, 2008

(in millions)	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Cash flows from operating activities:					
Cash receipts from premiums	$ 2,057	$ 2,138	$ (81)	$ 1,937	$ 120
Cash receipts – other	20	15	5	22	(2)
Cash disbursements for claims	(1,635)	(1,664)	29	(1,571)	(64)
Cash disbursements for other	(358)	(304)	(54)	(421)	63
Net cash provided (used) by operating activities	84	185	(101)	(33)	117
Net cash flows from capital and related financing activities	(21)	(20)	(1)	(23)	2
Net cash provided (used) by investing activities	161	(65)	226	578	(417)
Net increase (decrease) in cash and cash equivalents	224	100	124	522	(298)
Cash and cash equivalents, beginning of period	328	328	–	194	134
Cash and cash equivalents, end of period	$ 552	$ 428	$ 124	$ 716	$ (164)

Insurance **Ratios**

March 31, 2008

	Actual FY08 March 31, 2008	Projected FY08 March 31, 2008	Actual FY07 March 31, 2007
Loss ratio	116.89%	107.73%	80.93%
Lae ratio - MCO	12.14%	10.96%	7.51%
Lae ratio - BWC	13.00%	13.56%	14.99%
Net loss ratio	142.03%	132.25%	103.43%
Expense ratio	3.99%	3.61%	3.75%
Policyholder dividend ratio	0.00%	0.00%	0.00%
Combined ratio	146.02%	135.86%	107.18%
Net investment income ratio	35.44%	30.40%	32.07%
Operating ratio (trade ratio)	110.58%	105.46%	75.11%
Operating Cashflow Ratio	135.54%	106.10%	122.49%
Total Reserves to Net Assets	8 to 1	10 to 1	29 to 1
Investments to Loss Reserves	89.15%	86.18%	88.66%
Equities to Net Assets	1.3 to 1	1.7 to 1	3.7 to 1
Bonds to Net Assets	5.7 to 1	6.7 to 1	20.2 to 1

Fiscal Year End Insurance **Ratios**

Fiscal years ended June 30, 2003 – 2008

	Projected June 30, 2008	Audited				
		FY 07	FY06	FY05	FY04	FY03
Loss ratio	115.8%	46.9%	74.3%	106.7%	96.7%	128.9%
LAE Ratio - MCO	11.9%	3.8%	8.6%	7.1%	9.1%	8.8%
LAE Ratio - BWC	13.2%	10.9%	6.4%	14.7%	8.3%	12.9%
Net loss ratio	140.9%	61.6%	89.3%	128.5%	114.2%	150.6%
Expense ratio	3.9%	2.3%	4.0%	4.0%	5.1%	4.1%
Policyholder dividend ratio	0.0%	0.0%	-0.4%	10.3%	18.6%	28.7%
Combined ratio	144.8%	63.9%	92.9%	142.8%	137.9%	183.4%
Net investment income ratio	34.5%	18.5%	30.4%	22.1%	20.5%	23.9%
Operating ratio (trade ratio)	110.3%	45.4%	62.5%	120.7%	117.3%	159.5%

Note 1: FY 07 ratios have been significantly impacted by a statutory change in accounting for the Disabled Workers' Relief Fund that increased premium and assessment income by $1.9 billion.

Note 2: FY 06 ratios have been significantly impacted by improvements in medical payment trends that contributed to a reduction of approximately $1 billion in loss expenses.

Operating Cashflow Ratio	100.6%	114.2%	121.8%	94.0%	96.1%	50.8%
Total Reserves to Net Assets	9 to 1	8 to 1	-149 to 1	-19.5 to 1	19 to 1	29 to 1
Investments to Loss Reserves	87.6%	86.9%	85.7%	86.8%	100.5%	101.1%
Equities to Net Assets	1.5 to 1	1.1 to 1	0	-6.4 to 1	6.8 to 1	8.7 to 1
Bonds to Net Assets	6.0 to 1	5.8 to 1	-123 to 1	-8.3 to 1	9.2 to 1	15.7 to 1

4/25/2008

Considerations for Pneumo Fund Rules

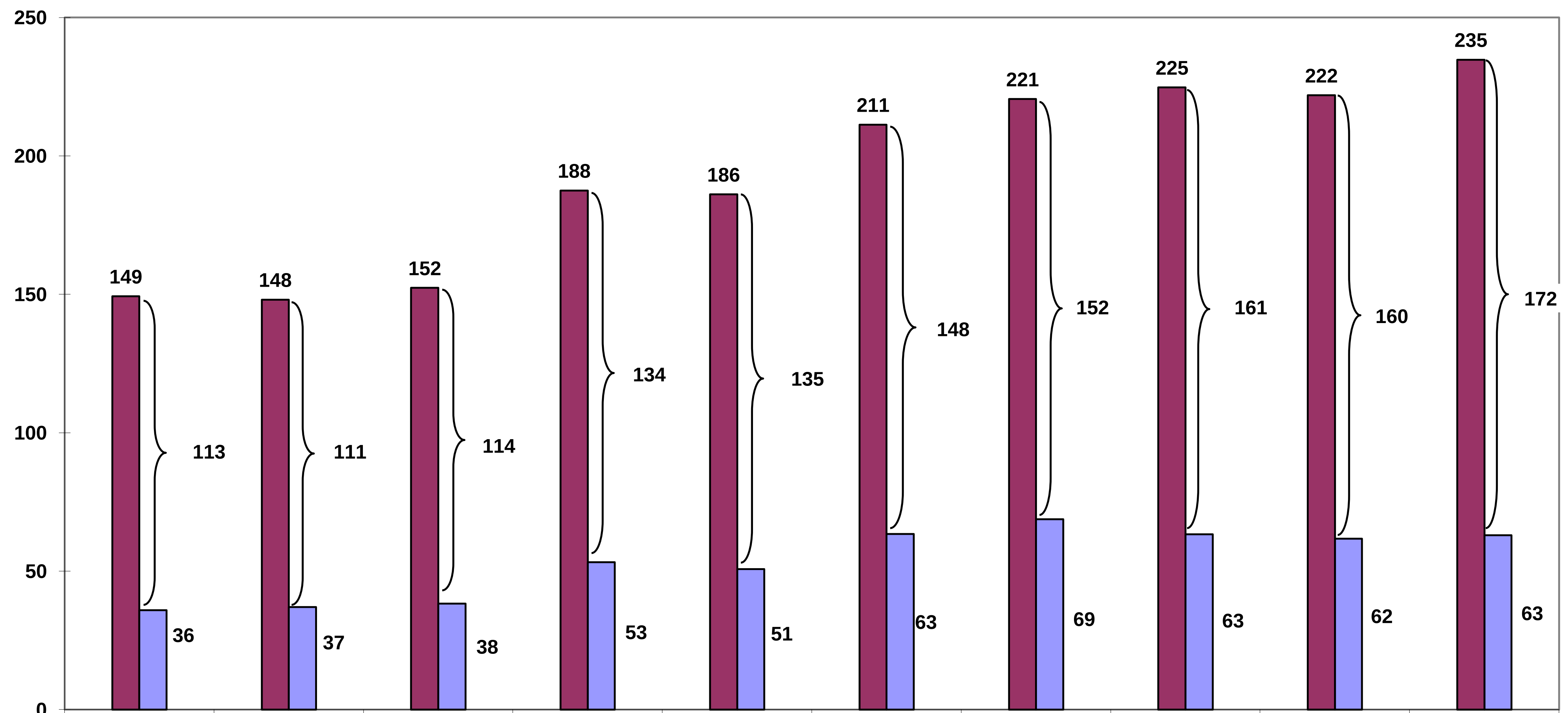
Stop Trigger: the ratio of net assets to liabilities falling beneath 1.5

Study Triggers:

1. the ratio of net assets to liabilities falls beneath 2.0
2. the total expenses (including mine safety funding) incurred by the fund do not exceed 70% of the interest and dividend income of the fund in the second year and beyond.

First year: The administrator may not transfer more than $5,528,000 from the fund. (This is the amount requested by ODNR)

Ohio Coal Workers Pneumoconiosis Fund
Assets, Liabilities, Net Assets ($million)



	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Assets ($000)	149,317	148,102	152,326	187,512	186,115	211,290	220,527	224,739	221,894	234,763
Liabilities ($000)	35,858	37,043	38,249	53,271	50,758	63,398	68,809	63,320	61,756	63,022
Net Assets ($000)	113,459	111,059	114,077	134,241	135,357	147,891	151,718	161,419	160,138	171,741
Ratio of Net Assets to Liabilities	3.2	3.0	3.0	2.5	2.7	2.3	2.2	2.5	2.6	2.7

COAL WORKERS' PNEUMOCONIOSIS FUND
Financial Information and Analysis
($000)

	FY03-07 AVG	FY 2007	FY 2006	FY 2005	FY 2004	FY 2003
Interest + Divd Income = **(A)**	11,523	12,209	11,582	11,680	10,744	11,401
Operating Expenses = **(B)**	3,727	2,850	4,910	3,092	4,275	3,506
(A) x 70% = (C)	8,066	8,546	8,107	8,176	7,521	7,981
Available Funding = **(C)** less **(B)**	4,339	5,696	3,197	5,084	3,246	4,475

Above figures exclude both securities lending income less expenses and investment management fees which are not material to this analysis

<u>Rule to transfer funds from Pneumoconiosis Fund to Mine Safety Fund (proposed)</u>

(A) Pursuant to section 4131.02(B)(2) of the Revised Code, the administrator of workers' compensation may transfer a portion of the investment earnings credited to the coal-workers pneumoconiosis fund to the mine safety fund created in section 1561.24 of the Revised Code for the purposes specified in that section.

(B) The administrator may transfer a portion of the investment earnings credited to the coal-workers' pneumoconiosis fund to the mine safety fund only if the ratio of net assets to liabilities of the coal-workers' pneumoconiosis fund is greater than or equal to 1.5. If such ratio falls below 1.5, the administrator shall suspend any transfer of investment earnings to the mine safety fund. The administrator may only resume the transfer of funds after the ratio of net assets to liabilities rises above 1.5 and a qualified actuary has determined that this ratio is not likely to fall below 1.5 over an acceptable defined period.

(C) The administrator may not transfer more than $5,528,000 to fund the mine safety fund created in section 1561.24 of the Revised Code in the first twelve-month period of the program.

(D) The administrator shall include a discussion and analysis by a qualified actuary regarding the actuarial soundness in continuing this program as a portion of the reserve audit conducted under section 4123.47 of the Revised Code if either of the following occurs:

(1) The ratio of net assets to liabilities of the coal-workers' pneumoconiosis fund falls below 2.0.

(2) In the second year of the program or beyond, the total expenses, including this program, incurred by the coal-workers' pneumoconiosis fund exceed seventy per cent of the interest and dividend income of the fund earned over the second twelve-month period from program inception and subsequent twelve-month periods.

R-127-2822

Bill Analysis

Michelle R. McGreevy *Legislative Service Commission*

LSC 127 1835

127th General Assembly
(As Proposed)

BILL SUMMARY

- Creates the Mine Safety Fund to be used for specified mine safety purposes, and authorizes the Administrator of Workers' Compensation to transfer a portion of the interest money from the Coal-Workers Pneumoconiosis Fund to the Mine Safety Fund.

- Requires applicants for examination for certification as mine forepersons or forepersons of gaseous or nongaseous mines to pay a fee established in rules adopted by the Chief of the Division of Mineral Resources Management in the Department of Natural Resources under the bill rather than a $10 fee established in current law.

- Requires a person who has been certified as a mine foreperson or foreperson of a gaseous or nongaseous mine and who has not worked in an underground coal mine for more than two years to be recertified, requires such a previously certified person who has not worked in an underground coal mine for at least one year to successfully complete a retraining course, and requires the Chief to adopt rules governing recertification and retraining.

- Generally, establishes immunity for mine rescue crew members, employers of crew members, and employees of the Division of Mineral Resources Management from liability in any civil action that arises for damage or injury caused in the performance of rescue work at an underground coal mine.

- Allows the operator of an underground coal mine to provide a mine-EMT at the mine in order to comply with the existing requirement that an emergency medical technician be on duty at the mine when miners are working, requires the Chief to adopt rules governing mine-EMT training, continuing training, examination, and an examination fee, and defines "mine-EMT" as a person who has satisfied the requirements established in rules.

- Requires the operator of an underground coal mine to provide tag lines or tie-off lines for each miner at the mine, requires mine employees to use tag lines or tie-off lines, and requires the Chief to adopt rules governing tag line and tie-off line use.

- Requires the operator of an underground coal mine to install fire detection devices on each conveyor belt that is used in the mine, and requires the Chief to adopt rules governing the use of such fire detection devices.

CONTENT AND OPERATION

Mine Safety Fund and Coal-workers Pneumoconiosis Fund

For the purposes of the statutes governing coal mine safety and surface mine safety, the bill creates the Mine Safety Fund in the state treasury. The Fund consists of money transferred to it by the Administrator of Workers' Compensation from the Coal-workers Pneumoconiosis Fund established in current law (see below). All investment earnings of the Mine Safety Fund must be credited to the Fund. The Chief of the Division of Mineral Resources Management in the Department of Natural Resources must use money in the Fund for mine safety and health inspections and audits, the purchase and maintenance of mine rescue equipment, the purchase or lease of facilities for use as mine rescue stations and for mine rescue training, safety and health training of miners, and certification of mine officials. (R.C. 1561.011 and 1561.24.)

Current law establishes the Coal-workers Pneumoconiosis Fund as a custodial fund consisting of premiums and other payments and requires the Bureau of Workers' Compensation to make disbursements from the Fund to persons who are entitled to payments under federal law. The bill authorizes the Administrator of Workers' Compensation to transfer a portion of the investment earnings credited to the Coal-workers Pneumoconiosis Fund to the Mine Safety Fund created by the bill (see above). The Administrator, with the advice and consent of the Bureau of Workers' Compensation Board of Directors, must adopt rules governing the transfer in order to ensure the solvency of the Coal-workers Pneumoconiosis Fund. (R.C. 4131.03(B)(2).)

Recertification and retraining of mine forepersons and forepersons

Current law establishes requirements for applicants for certificates as mine forepersons or forepersons of gaseous mines and nongaseous mines. Each applicant for examination for certification as a mine foreperson or foreperson must pay a fee of $10 to the Chief of the Division of Mineral Resources Management on the first day of examination. The bill instead requires an applicant to pay a fee established in rules adopted under the bill (see below). (R.C. 1561.16(B) and 1561.17(A).)

In addition, the bill requires a person who has been issued a certificate as a mine foreperson or a foreperson of a gaseous or nongaseous mine and who has not worked in an underground coal mine for a period of more than two calendar years to apply for and obtain recertification from the Chief in accordance with rules adopted under the bill before performing the duties of a mine foreperson or a foreperson of a gaseous or nongaseous mine, as applicable. An applicant for recertification must pay a fee established in rules adopted under the bill at the time of application for recertification. (R.C. 1561.16(C) and 1561.17(B).)

The bill also requires a person who has been issued a certificate as a mine foreperson or a foreperson of a gaseous or nongaseous mine and who has not worked in an underground coal mine for a period of one or more calendar years to successfully complete a retraining course in accordance with rules adopted under the bill before performing the duties of a mine foreperson or a foreperson of a gaseous or nongaseous mine, as applicable. (R.C. 1561.16(D) and 1561.17(C).)

Under the bill, the Chief, in consultation with a statewide association representing the coal mining industry and a statewide association representing employees of coal mines, must adopt rules in accordance with the Administrative Procedure Act that do all of the following:

(1) Prescribe requirements, criteria, and procedures for the recertification of a mine foreperson or a foreperson of a gaseous mine or nongaseous mine who has not worked in an underground coal mine for a period of more than two calendar years;

(2) Prescribe requirements, criteria, and procedures for the retraining of a mine foreperson or a foreperson of a gaseous mine or nongaseous mine who has not worked in an underground coal mine for a period of one or more calendar years;

(3) Establish fees for the examination and recertification of mine forepersons or forepersons of gaseous mines or nongaseous mines under the bill; and

(4) Prescribe any other requirements, criteria, and procedures that the Chief determines are necessary to administer the bill's requirements governing recertification and retraining. (R.C. 1561.16(E) and 1561.17(D).)

Finally, current law requires the Chief to issue certificates to applicants who pass their examination for specified mine positions, including mine forepersons and forepersons of gaseous or nongaseous mines, as applicable. It specifies that any certificate that was issued by the former Mine Examining Board prior to October 29, 1995, remains in effect notwithstanding the classifications of certificates established in current law. The bill specifies that the provision regarding continuation of certificates does not apply to the bill's requirements governing recertification. (R.C. 1561.23.)

Immunity from civil liability for mine rescue crews and Division of Mineral Resources Management employees

Current law requires the Superintendent of Rescue Stations in the Division of Mineral Resources Management to train and employ rescue crews of six members each at the four rescue stations that the Division is required to establish and maintain in the state. The Superintendent must train and employ the number of rescue crews that the Superintendent believes necessary. One member of each crew must be certified as a mine foreperson or fire boss and be designated captain. In addition, one member of each rescue crew must be certified as an EMT-basic, EMT-1, or paramedic. The bill adds mine-EMT to that list and defines "mine-EMT" as a person who has satisfied the requirements established in rules adopted under the bill (see "***Mine-EMTs***," below). (R.C. 1561.26(A) and (B), by reference to 1565.15(A)(3).)

The bill then states that no member of a mine rescue crew who performs mine rescue at an underground coal mine and no operator of a mine whose employee participates as a member of such a mine rescue crew is liable in any civil action that arises under Ohio laws for damage or injury caused in the performance of rescue work at an underground coal mine. However, a member of such a mine rescue crew may be liable if the member acted with malicious purpose, in bad faith, or in a wanton or reckless manner. The bill states that the immunity established by the bill does not eliminate, limit, or reduce any immunity from civil liability that is conferred on a member of such a mine rescue crew or an operator by any other Ohio statute or by case law. (R.C. 1561.26(D).)

Additionally, the bill provides that except for civil actions in which the state is the plaintiff, no employee of the Division who performs rescue work at an underground coal mine is liable in any civil action that arises under Ohio laws for damage or injury caused in the performance of rescue work at an underground coal mine unless the employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner. The bill states that the immunity established by the bill does not eliminate, limit, or reduce any immunity from civil liability that is conferred on an employee of the Division by any other Ohio statute or by case law. (R.C. 1561.261.)

Mine-EMTs

Current law requires the operator of an underground coal mine where 20 or more persons are employed on a shift, including all persons working at different locations at the mine within a ten-mile radius, to provide at least one EMT-basic or EMT-I on duty at the mine whenever employees at the mine are actively engaged in the extraction, production, or preparation of coal. The operator must provide EMTs-basic or EMTs-I on duty at the mine at times and in numbers sufficient to ensure that no miner works in a mine location that cannot be reached within a reasonable time by an EMT-basic or an EMT-I. EMTs-basic and EMTs-I must be employed on their regular coal mining duties at locations convenient for quick response to emergencies in order to provide emergency medical services inside the underground coal mine and transportation of injured or sick employees to the entrance of the mine. Current law also requires the operator to make available to EMTs-basic and EMTs-I all of the equipment for first aid and emergency medical services that is necessary for those personnel to function and to comply with the regulations pertaining to first aid and emergency medical services that are adopted under the Federal Mine Safety and Health Act. The operator must install telephone service or equivalent facilities that enable two-way voice communication between the EMTs-basic or EMTs-I in the mine and the emergency medical service organization outside the mine that provides emergency medical services on a regular basis. (R.C. 1565.15(A) and (B).)

The bill adds mine-EMTs to all of the above provisions (R.C. 1565.15(A) and (B)). It then requires the Chief, in consultation with persons certified under the Division of Emergency Medical Services Law to teach in an emergency medical services training program, to adopt rules in accordance with the Administrative Procedure Act that do all of the following:

(1) Prescribe training requirements for a mine-EMT that specifically focus on treating injuries and illnesses associated with underground coal mining;

(2) Prescribe an examination for a mine-EMT;

(3) Prescribe continuing training requirements for a mine-EMT;

(4) Establish the fee for examination for a mine-EMT; and

(5) Prescribe any other requirements, criteria, and procedures that the Chief determines are necessary regarding the training, examination, and continuing training of mine-EMTs (R.C. 1565.15(E)).

As indicated above, "mine-EMT" is defined as a person who has satisfied the requirements established in the rules (R.C. 1656.15(A)(3)).

The bill also provides that if a person qualifies as a mine-EMT or similar classification in another state, the person may provide emergency medical services as a mine-EMT in Ohio without completing the training or passing the examination that is required in rules adopted under the bill, provided that the Chief determines that the person's qualifications from the other state satisfy all of the applicable requirements that are established in those rules. (R.C. 1565.15(E).)

Tag lines and tie-off lines

The bill requires the operator of an underground coal mine to provide tag lines or tie-off lines for each miner at the mine (R.C. 1567.64(B)). The bill defines "tag lines" and "tie-off lines" to have the same meanings as in rules adopted under the bill as discussed below (R.C. 1567.64(A)). The operator must provide and employees of the mine must use tag lines or tie-off lines in accordance with requirements and procedures established in those rules (R.C. 1567.64(B)). The Chief, in consultation with a statewide association representing the coal mining industry and a statewide association representing employees of coal mines, must adopt rules in accordance with the Administrative Procedure Act concerning the use of tag lines or tie-off lines in an underground coal mine. The rules must include all of the following:

(1) A definition of "tag line" and of "tie-off line";

(2) A description or list of acceptable tag lines and tie-off lines;

(3) Procedures and requirements for the use of tag lines and tie-off lines;

(4) Procedures for the approval and inspection of the use of tag lines and tie-off lines in a mine; and

(5) Any other requirements concerning tag lines or tie-off lines that the Chief determines are necessary. (R.C. 1567.64(C).)

The bill prohibits an operator of a mine from refusing or neglecting to comply with the bill's provisions discussed above or rules adopted under them (R.C. 1567.64(D)). Violation is a minor misdemeanor (R.C. 1567.99, not in the bill).

Fire detection devices

The bill requires the operator of an underground coal mine that uses conveyor belts in the operation of the mine to install fire detection devices on each conveyor belt that is used in the mine. The fire detection devices must be of a design and type established in rules adopted under the bill as discussed below. The Chief must inspect the fire detection devices after the operator of the mine has installed them on the conveyor belts that are used in the operation of the mine. The Chief must approve or disapprove the installation of the fire detection devices and must notify the operator of the Chief's decision. (R.C. 1567.681(A).)

The bill requires the Chief, in consultation with a statewide association representing the coal mining industry and a statewide association representing employees of coal mines, to adopt rules in accordance with the Administrative Procedure Act concerning the installation and use of fire detection devices on conveyor belts that are used in an underground coal mine. The rules must include all of the following:

(1) The design and types of fire detection devices that must be used on a conveyor belt in order to provide for the earliest possible detection of a fire;

(2) The number of fire detection devices that are required on a conveyor belt;

(3) A procedure for the notification of the Chief after the operator of a mine has installed the fire detection devices;

(4) A procedure for the inspection of fire detection devices installed on a conveyor belt; and

(5) Any other requirements that the Chief determines are necessary. (R.C. 1567.681(B).)

The bill prohibits an operator of a mine from refusing or neglecting to comply with the bill's provisions discussed above or rules adopted under them (R.C. 1567.681(C)). Violation is a minor misdemeanor (R.C. 1567.99, not in the bill).

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BWC Board of Directors

Legislative Update

April 25, 2008

Active Bills

HB 431—Rep. Patton (R-Strongsville) Rebuttable presumption--Firefighter or EMS worker contract cancer or contagious or infectious disease while performing official duties.

- Provides that a firefighter or EMS worker who is disabled as a result of cancer or certain contagious or infectious diseases is presumed for purposes of laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the disease while performing official duties.
- Introduced 1/15/08, referred to House Commerce and Labor Committee "HCL"
- Sponsor testimony in HCL on 2/19/08
- 2nd Hearing Proponent Testimony on 3/11/08 in HCL
- 3rd Hearing Opponent Testimony on 4/1/08 in HCL. No opposition testimony provided. However, three letters of opposition/concern were submitted to the committee by the City of Cleveland, the Ohio Ambulance and Medical Transportation Association, and the Ohio Municipal League.
- The bill, if enacted, would likely result in premium increases for public entities that employee firefighters and EMS. Increases would also be expected for private EMS/ambulatory companies.

HB 456—Rep. Raussen (R-Springdale) Healthcare Reform – Ohio C.A.R.E.

- The bill creates two BWC discount programs as an incentive to employers to implement wellness measures for their employees:
  - Up to a 15% discount, for up to three years, for qualifying employers who offer a qualifying health insurance plan to employees that previously did not offer such a plan.
  - Up to a 5% discount, for up to three years, for qualifying employers who offer a health and wellness program for their employers.
  - Employers eligible for both programs may receive up to a 20% premium discount on top of any other BWC premium discounts they are already receiving.
- The bill creates the Office of Pharmaceutical Purchasing Coordination (OPPC) within the Department of Administrative Services (DAS.)
  - All BWC pharmaceutical purchases would be made through this office unless written documentation were provided to DAS demonstrating that BWC was able to obtain prescriptions at the cost by which OPPC would obtain them.
- Sponsor Testimony provided by Rep. Raussen on 2/06/08. Rep. Raussen indicated the bill is and will be a work in progress, a starting point. The House Health Care Access and Affordability Committee will continue to hear testimony in the weeks and months ahead. Hearings will be scheduled by subject matter.
- John Pedrick, Gregg Paul, and Laura Abu-Absi met with Rep. Raussen on 3/12/08 to express some concerns with the discount programs.
- BWC premium discounts for businesses and statewide purchasing of pharmaceutical benefits scheduled to be heard on 4/30/08.

HB 397/SB 290—Rep. Szollosi (D-Oregon) Sen. Wagoner (R-Maumee) -- Eliminates concurrent jurisdiction.

- Exempts workers covered under federal Longshore and Harbor Workers' Compensation Act (LHWCA) from state coverage unless it is elected by the employer
- Proponent testimony provided for HCL 2/5/08—Keith Flagg, Federal Marine Terminals, Inc, Lauri Justen, Midwest Terminals of Toledo International, Inc., Tony Fiore, Ohio Chamber of Commerce.
- BWC has concerns that proposed language by OCC and OATL would expose BWC's State Insurance Fund to risks for which we are not collecting premium. BWC has drafted an alternative amendment which would clarify when an IW elects exclusive remedy under the FLWCA.
- Sen. Wagoner introduced companion bill SB 290 (2/12/08.)
- 4th Hearing Proponent/Opponent/Interested Party hearing Amendment on 3/11/08. The amendment clarifies that the exclusive remedy for an injured longshore and harbor employee is the LHWCA, unless the longshore and harbor employee is engaged in work activities not covered under the LHWCA. In these limited instances an injured longshore and harbor employee would file a state claim.

HB 461—Rep. Batchelder)/SB287 (Stivers)

- Creates a deductible program for the first $15,000 of every claim. The intent is to eliminate the first $15,000 of any injury from an employer's experience rating.
  - The sponsors cite stats used in our group rating materials in terms of premium increases and their negative impact on employers to demonstrate need for the program.
- Would have all $15K program claims managed by the MCO's and would enable employers to use BWC's fee schedule.
  - In the current $15K medical-only program, employers completely bypass the BWC system, working directly with medical providers
  - This would be an increased administrative burden on BWC
  - The sponsors cite the fact that currently, claims in the $15K medical-only program are the only state fund claims in any BWC program that cannot have their claims managed by the MCOs.
- Legislative Affairs and CAO John Pedrick conducted conference call with Rep. Batchelder on 3/3/08. Rep. Batchelder requested memo of concern from BWC and indicated he would express these concerns should he give sponsor testimony.
- Sponsor Testimony provided by Senator Stivers in Senate Insurance, Commerce and Labor Committee on 4/02/08
- Letter of concern authored by Legislative Affairs and Chief Actuary John Pedrick sent to Senator Stivers and Rep. Batchelder on 4/02/08.

Pneumoconiosis Fund – use of portion of interest for ODNR Mine Safety Program.

- 10/26/07 – Administrator Ryan presented high-level concept to Board of Directors in her report
- 2/26/08--BWC and Governor's office met with Sen. Stivers (R-Columbus) relative to Fund and Mine Safety Program. Sen. Stivers indicated that while he supports the measure as a short-term funding solution, ODNR and the Administration should seek a long-term funding solution outside of the Pneumoconiosis Fund interest.
- Legislative Affairs has drafted legislative language and has forwarded the legislative draft to ODNR and Governor's office for review. Legislation will likely be introduced sometime in March with possible committee hearings in April.

Submitted by:

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