BWC Board of Directors

ACTUARIAL COMMITTEE

Thursday, June 18 2009, 2:00 P.M.
William Green Building
30 West Spring St.2nd Floor (Mezzanine)
Columbus, Ohio 43215

MEMBERS PRESENT:	Charles Bryan, Chair Jim Matesich, Vice Chair David Caldwell James Hummel Thomas Pitts William Lhota, ex officio
Members Absent:	None
Other Directors Present:	James Harris, Larry Price, Robert Smith
Counsel Present:	Ann Shannon, Legal Counsel

CALL TO ORDER

Mr. Bryan called the meeting to order at 2:00 p.m. and the roll call was taken, with Mr. Caldwell, Mr. Hummel, and Mr. Pitts reporting present. Mr. Bryan announced that the Actuarial Committee had a quorum and continued the meeting. Mr. Bryan also reported that Mr. Matesich and Mr. Lhota would be present later in the meeting. Director Lhota joined the meeting at 2:35; Director Matesich joined the meeting at 3:25 pm.

AGENDA

Mr. Hummel moved to adopt the agenda as presented. Mr. Pitts seconded and the agenda was adopted by a roll call vote of four ayes and no nays.

LITIGATION

Mr. Bryan announced there would be no litigation update and no executive session.

MINUTES OF MAY 28, 2009

Mr. Caldwell moved to approve the minutes of May 28, 2009. Mr. Pitts seconded and the minutes were approved by roll call vote of four ayes and no nays.

ACTION ITEMS

RULES FOR SECOND READING

ADMINISTRATIVE COST FUND ASSESSMENTS, OHIO ADMINISTRATIVE CODE RULE 4123-17-36

Tracy Valentino, Chief Financial Officer, recommended approval of amendments to Ohio Administrative Code Rule 4123-17-36 regarding Administrative Cost Fund (ACF) assessments to employer groups. The amendment was first presented to the Actuarial Committee at its May meeting. Employers are charged according to their use of the workers' compensation system. The analysis is based on software also used by the United States Government for cost allocation. A summary and full report of the analysis is available to members of the Workers' Compensation Board upon request to Ms. Valentino.

For fiscal year 2010, BWC is proposing a budget of $274 million, which is less than the fiscal year 2006 budget of $289 million. Fiscal year 2010 will have lower costs, but also a lower allocation base. This leads to higher rates. BWC has been able to keep the increased rate smaller by rolling $6.7 million of the anticipated cash balance into the calculation.

Mr. Pitts asked what the reasons for the reduction were in the administrative cost. Ms. Valentino replied it is based on a reduced BWC budget. BWC is working on increasing collections.

Mr. Bryan asked from where BWC derived the premium amount to calculate the ACF rates. John Pedrick, Chief Actuarial Officer, reported that BWC estimated the premium for 2010 by using the 2008 premium and assuming it would decrease by 13.5%.

Mr. Pitts moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator’s recommendations to amend Rule 4123-17-36 of the Administrative Code, Administrative Cost Fund Assessments. The motion consents to the

Administrator amending the rule as presented here today. Mr. Caldwell seconded and the motion was approved by a roll call vote of four ayes and no nays.

SELF-INSURING EMPLOYER ASSESSMENTS, OHIO ADMINISTRATIVE CODE RULE 4123-17-32

Mr. Pedrick; Tom Woodruff, Director, Self-Insured Department; and Terry Potts, Underwriting Supervisor, Actuarial Department, recommended setting of the assessments for self-insuring employers. Mr. Potts reported this action affects 1,200 employers and applies to seven assessments. Four assessments are mandatory and three are optional.

Mr. Bryan asked why the employer’s opt-out of the three optional assessments is irrevocable. Mr. Potts replied because the statutes so provide. Mr. Pedrick added that making participation optional for each year would lead to adverse selection. Mr. Bryan suggested that the concern of adverse selection could be diminished by permitting employers periodically, for example, every five years, to reconsider whether to participate. Mr. Potts added the three programs are included in the Deloitte Study for examination.

Mr. Potts reported that the 2009 mandatory rates are higher than 2008, but also lower than those for 2004 to 2006. The mandatory surplus fund assessment increases from 0.045 to 0.0935 of calendar year 2008 reported paid compensation. The assessment is unchanged for the Self-Insuring employers’ Guaranty Fund. The ACF assessments for BWC and the IC are slightly higher and there is a new ACF assessment for the Workers' Compensation Council.

Mr. Bryan asked why BWC is reducing the Safety and Hygiene assessment. Ms. Valentino responded that BWC has looked at self-insurers for the services they actually use. Also, there has been a cash build-up for nine or ten years, so now the Safety and Hygiene Fund is more than 100% of next years’ appropriation. The rate has been set to reduce this balance. Mr. Bryan asked why BWC is not using the cash balance for programs. Ms. Valentino responded that the General Assembly has not appropriated the funds. BWC has recently appointed a new director of Safety and Hygiene, so BWC will look at all programs.

Mr. Harris asked how safety could be a priority while it is reducing the funding. Ms. Valentino responded that BWC has sufficient funds to pay for new programs after reducing the assessment. Marsha Ryan, Administrator, assured the Actuarial Committee that BWC has the ability to adequately and effectively fund safety programs.

Mr. Pitts asked why the mandatory surplus assessment increased so dramatically. Mr. Potts answered that in 2008, BWC collected $2 million less from sureties than the year before. Mr. Pitts asked how the rate change affected the fund balance. Mr. Potts reported the new rate would bring in about $3 million more.

The executive summary provides charts showing previous years' trends in insolvencies among bankrupt employers. There were peaks in 2002 because of steel company bankruptcies and in 2004 because of the Big Bear Grocery case. The year 2009 will also have a peak because of automotive industry cases.

Mr. Lhota entered the meeting.

Mr. Woodruff explained that each year, new employers are added to the list of defaults. As of May 2009, the Self-Insured Department was administering 1799 claims of 120 employers. For the year to date, five new employers have defaulted. Some employers default without filing a bankruptcy case.

Mr. Hummel asked if all self-insuring employers are guaranteeing with bonds or letters of credit. Mr. Woodruff replied that before 1987, all employers were required to provide bonds. Since 1987, all employers are covered under the Guaranty Fund. BWC has required some employers to provide letters of credit for liability after 1987.

Mr. Potts reported that BWC had received some questions on the auto industry and its effects. With respect to pre-1987 claims, it is likely that BWC has sufficient security. For claims after 1986, BWC has enough in letters of credit and fund balance sufficient to absorb an unexpected cost of $10 million and still meet the requirement that the Guaranty Fund have a balance 1.25 times annual expenditures.

Mr. Bryan asked if the Guaranty Fund is equitable as to future self-insurers. Mr. Pedrick replied that the Guaranty Fund is pay-as-you go and has minimum funding, BWC has not attempted to project future defaults and costs. Using past events, BWC has calculated funding needs. The Deloitte Study has also recommended changes to the Guaranty Fund.

Mr. Bryan asked what the source of the $10 million cushion is. Mr. Pedrick replied that the Guaranty Fund had a balance of $53 million, and had expenditures of $21 million as of December 31, 2008. At the current rate of expenditures and receipts, the fund will have a cushion of approximately $10 million at the end of calendar year 2010, which is a reasonable amount to for the fund to absorb auto industry costs not addressed by other collateral.

Mr. Harris asked how BWC determined who the major automotive suppliers are. Mr. Woodruff reported that Self-Insured Department examined annual reports, made phone calls, and researched other sources.

Mr. Price asked who the stakeholders are. Mr. Woodruff reported that stakeholders consisted of all self-insuring employers and the Ohio Self-Insurers Association (OSIA). BWC received few comments and no comments with concerns.

Mr. Hummel moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator’s recommendations to amend Rule 4123-17-32 of the Administrative Code, Self-Insuring Employer Assessments. The motion consents to the Administrator amending the rule as presented here today. Mr. Pitts seconded and the motion was approved by a roll call vote of five ayes and no nays.

Mr. Price asked what the protocol for obtaining stakeholder input is. Ms. Ryan replied for a rate change, rather than a rule, input would not be formally solicited, so there is no protocol. The rate is calculated through a mathematical calculation, so solicitation of comments would get feed-back that the rate is too high or too low. Mr. Pedrick apologized for omitting his discussion with the OSIA, where the new rates were presented. Ms. Ryan also reported that Chris Royer, Timken Company, is the new chair of the OSIA and has been kept informed of the changes.

Mr. Bryan requested that the Common Sense Business Regulation for Rules be completed and submitted to the Workers' Compensation Board by tomorrow’s meeting.

Mr. Woodruff added that BWC is being pro-active in securitization and is looking at the Deloitte Study and the programs of other states for guidance on funding.

Mr. Hummel asked if BWC can go to self-insurers for additional security. Mr. Woodruff replied it is available under Ohio Revised Code § 4123.351 and an Administrative Code rule. BWC will ask for security if financial statements and other events show a need. BWC usually asks for a letter of credit, but will accept other security.

PUBLIC EMPLOYER TAXING DISTRICTS CREDIBILITY TABLE, OHIO ADMINISTRATIVE CODE RULE 4123-17-33.1

Mr. Pedrick reported that the credibility table for Public Employer Taxing Districts is being changed as part of rating reform. BWC proposes the adoption of the same table as used for private employers, with a maximum credibility of 77 percent. Adoption of the rule now completes one piece of the rate reform changes for these employer segment***s***.

Mr. Pitts moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator’s recommendations to amend Rule 4123-17-33.1 of the Administrative Code, Public Employer Taxing District Credibility Table Used for Experience Rating. The motion consents to the amendment of the Rule 4123-17-33.1 as presented here today. Mr. Hummel seconded and the motion was approved by a roll call vote of five ayes and no nays.

ADDITIONAL RULES: PUBLIC EMPLOYER TAXING DISTRICT DEDUCTIBLE PROGRAM, OHIO ADMINISTRATIVE CODE RULE 4123-17-72

Joy Bush, Program Development Director, recommended amendment of Ohio Administrative Code Rule 4123-17-72, which adds deductible factors for public employer taxing districts. She reported that after approval of the rule for private employers, BWC has received 570 applications. The rule will be effective for public employers on January 1, 2010. Most employers have standard manuals of the National Council on Compensation Insurance (NCCI); however, there are Ohio state-special manuals for public employers.

Mr. Hummel moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator’s recommendations to amend Rule 4123-17-72, Deductible Rule. The motion consents to the Administrator amending the rule as presented here today. Mr. Caldwell seconded and the motion was approved by a roll call vote of five ayes and no nays.

GROUP RETROSPECTIVE RATING RULE, OHIO ADMINISTRATIVE CODE RULE 4123-17-73

Ms. Bush recommended amendment of Ohio Administrative Code Rule 4123-17-73 regarding the Group Retrospective Rating Plan. Stakeholders had asked for a one-time deadline extension to July 31.

Mr. Pitts moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator’s recommendation to amend Rule 4123-17-73 of the Administrative Code, Group Retrospective Rating. The motion consents to the Administrator amending the rule as presented here today. Mr. Hummel seconded and the motion was approved by a roll call vote of five ayes and no nays.

EXPERIENCE MODIFICATION CAP SPONSOR CERTIFICATION REQUIREMENTS, OHIO ADMINISTRATIVE CODE RULE 4123-17-70

Mr. Bryan requested waiver of the first reading for approval of this motion. Tina Kielmeyer, Chief of Customer Services, recommended amendment of Ohio Administrative Code Rule 412-17-70 to reinstate requirements for sponsors servicing capped employers for the July 1, 2009, policy year. The change is at the request of stakeholders.

Mr. Price observed that this is an excellent example of response to stakeholder input.

Mr. Bryan announced that Mr. Matesich had entered the meeting.

Mr. Caldwell moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendations to amend Rule 4123-17-70 of the Administrative Code, Ten Step Business Plan for Safety. The motion consents to the Administrator amending the rule as presented here today. Mr. Pitts seconded the motion.

In a roll call vote of five ayes, no nays, and with Mr. Matesich abstaining, the Actuarial Committee waived the requirement of a first reading.

In a roll call vote of five ayes, no nays, and one abstention, the Actuarial Committee approved the motion to amend the rule.

SPONSORSHIP MARKETING RULE, OHIO ADMINISTRATIVE CODE RULE 4123-17-61.1

Ms. Kielmeyer recommended amendment of Ohio Administrative Code Rule 4123-17-61.1 on group sponsor marketing. Sponsors have complained that some sponsors are falsely marketing group plans with discounts or amounts, so BWC is modifying the rule. The rule was presented to the Actuarial Committee for a first reading.

Mr. Harris asked if the rule should require that BWC "will take action," rather than "may take action." Ms. Kielmeyer replied that BWC should evaluate the severity of the sponsor's misleading statement. Other sanctions could include imposing on the sponsor "at capacity" restrictions. Mr. Harris suggested that BWC do more than slap the hands of offending sponsors.

REQUEST FOR PROPOSAL RECOMMENDATION

Mr. Pedrick recommended approval of the new actuarial consultant. He reported that the Actuarial Committee had approved the Request for Proposal (RFP) at its November 2008 meeting and BWC formed an evaluation committee consisting of Mr. Hummel, Mr. Pedrick, Ray Mazzotta, Chief Operating Officer, Ms. Valentino, and Elizabeth Bravender, Actuarial Director. The RFP was issued in February and BWC received seven proposals in April. Mr. Pedrick contacted consultant references and provided his scores to the team. The committee conducted phone interviews in June. Only the top three consultants based on scores were contacted for phone interviews. The consultant with the highest total score was selected by the committee for recommendation to the Workers' Compensation Board.

The Administrator is recommending to the Workers' Compensation Board that she award the entire contract on ratemaking, reserving, and special projects to Deloitte Consulting LLC. The contract requires approval and consent of the Workers' Compensation Board.

Mr. Hummel stated he believed the selection process met the fiduciary responsibilities of the Board and the Bureau. He thanked Administrator Ryan for the opportunity to participate in the selection. He thanked Ms. Bravender for preparing the scoring sheet. He especially thanked Larry King, Supervisor, Research and Statistical Unit, and Donna Ludwick, Underwriter, for their work in preparing the evaluation of responders. Mr. Hummel stated that the scoring of respondents was done independently by committee members, but that the committee was 100% in agreement on the choice.

Mr. Bryan thanked Oliver Wyman for its years of fine service to BWC.

Mr. Pedrick thanked Mr. Hummel, Ms. Bravender, and BWC staff for their assistance. He reported that there would be at least a three-month overlap in service by the two vendors. Deloitte will be present at the July meeting of the Actuarial Committee.

Mr. Pitts moved that the Actuarial Committee of the Bureau of Workers' Compensation Board of Directors recommend to the Board that it approve Deloitte Consulting LLP as the Bureau’s actuarial consultant for the reasons set forth in the Actuarial Consultant RFP Report prepared by the BWC Actuarial Division dated June 18, 2009, and upon such terms as are outlined in the Response to the Request for Proposals issued February 27, 2009, and such other terms as are favorable to the Bureau. Upon a second by Mr. Caldwell, the motion passed by a vote of 6-0.

DISCUSSION ITEMS

QUARTERLY RESERVE UPDATE

Jeff Scott, Principal, Oliver Wyman, reported on the reserve update. The major features are use of a discount rate of 4.5% instead of 5% and re-evaluation of the affect of the lump-sum settlement program on reserves. That is, the reduction in reserve tail is less than predicted. Also, medical payments are $400 million less before the change of the discount rate. Oliver Wyman was initially reluctant to attribute low impact to lump-sum settlements because, before the Deloitte Study, the sharp increase in lump sum settlements in 2007 and 2008 did not reflect a reduction in payments of other benefits. Thus, there has been little decline in the reserves.

Mr. Pitts asked when the lump sum settlements will affect the reserve tail. Mr. Scott reported that they may affect reserves in five to six years.

Mr. Scott further reported that the change in the discount rate increased reserves for permanent total disability (PTD) and death benefits by 5 % over the previous quarter's reserve report. The Medical inflation assumption is unchanged. Average medical severity for BWC claims over the long term is still higher than the medical consumer price index, which is consistent with reports from NCCI. However, the severity trend for the past three years is flat because of implementation of cost schedules. For indemnity severity, there was a 5% decline in 2008.

Mr. Lhota asked how the charge on average indemnity severity would compare with a chart on the gross domestic product. Mr. Scott responded that the GDP would show decline in a ten-year chart because of the shift from manufacturing to services. William Hansen, Oliver Wyman, stated that BWC is not seeing significant changes in frequency that can be attributed to the shift from manufacturing.

Mr. Bryan asked when will these report's conclusions be placed in the BWC Enterprise Report. Mr. Scott replied that it would be available in early August. Accordingly, Mr. Bryan requested that this item be scheduled for more discussion.

PUBLIC EMPLOYER TAXING DISTRICT RATE REFORM

Mr. Pedrick reported on rate reform for public employer taxing districts. The analysis is still underway and conclusions will be presented to the Workers' Compensation Board at its July meeting.

PRIVATE EMPLOYER CREDIBILITY TABLE FOR JULY 1, 2010

Mr. Pedrick reported that BWC is preparing a new credibility table for private employers, with a target of reducing the maximum discount to 65%. This task is not pressing because BWC will be looking at all groups on equitability and evaluation of the split experience rating program. The table will be presented to the Workers' Compensation Board for action by September.

CHIEF ACTUARY REPORT

Mr. Pedrick reported that the written report contains a discussion of HB15, the BWC budget bill and its proposals concerning the construction industry. BWC had conducted a meeting in May for construction industry stakeholders. The effect of change from MIRA 1 to MIRA 2 was a 22% drop in the value of reserves. Some employer modifiers increased, and some decreased. Overall, BWC is seeing fewer groups formed with employer modifications of 85% to 99%.

BWC was informed that 1,200 employers in the construction industry were adversely affected. The first task was to eliminate employers whose primary operational industry is not construction. BWC also carved out those whose experience rating was subject to the 100% EM cap. This leaves between 600 and 700 employers. While the base rate is the lowest in several years, BWC has developed a method for addressing concerns. Affected employers' EMs will all be reported at 99%, with an asterisk. However, BWC will collect premiums at the correct rate based on the uncapped EM.

Mr. Bryan asked if the public will not be able to determine the true rate. Mr. Pedrick replied that the asterisk prevents detection of employers' experience rates, per HB15. In meetings with construction industry representatives BWC agreed to help with efforts to explain that the EM is not designed as a tool for contractor selection and that hiring entities should look past the EM to the details of the actual bid and the contractor making it. However discussions with the legislature turned focus to the method of calculating EMs, its actuarial soundness and potential legislative action to change some employers' EMs contrary to sound actuarial methods. As a compromise, the construction EM cap at 99%, marked with an asterisk, is likely to result in hiring entities looking closer at the bidding contractor, which is consistent with earlier discussions.

Mr. Matesich asked if the EM discrimination occurs in public projects. Ms. Ryan answered that when BWC looks at specific contracting requirements, it is not in schools or counties, but there is some evidence of discrimination by large private employers. However, the Senate has accepted the contractors' view.

Mr. Hummel asked if this EMR designation is a one-time report. Mr. Pedrick reported that it will stay in place until the split experience rating plan is in place. There is a sunset provision in the uncodified part of HB15. Ms. Ryan stated that third party administrators should be advising construction contractors that in all insurance systems, some employers pay higher than average rates and some pay lower. BWC must collect the right premium from employers so some are not subsidizing others.

COMMITTEE CALENDAR

Mr. Bryan reported that there were changes to the calendar to show consideration of retrospective plans.

ADJOURNMENT

Mr. Matesich moved to adjourn. Mr. Hummel seconded and Mr. Bryan adjourned the meeting after the motion was approved by unanimous roll call vote.

Prepared by: Larry Rhodebeck, Staff Counsel
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June 25, 2009