

BWC Board of Directors

BOARD MEETING

Friday, November 20, 2009, 8:00 A.M.

William Green Building

30 West Spring St. 2nd Floor (Mezzanine)

Columbus, Ohio 43215

MEMBERS PRESENT: William Lhota, Chair
James Harris, Vice Chair
Charles Bryan
David Caldwell
Alison Falls
Ken Haffey
James Hummel
Jim Matesich
Thomas Pitts
Larry Price
Robert Smith

Member Absent: None

Counsel Present: John Williams, Assistant Attorney General

CALL TO ORDER

Mr. Lhota called the meeting to order at 8:00 a.m. and the roll call was taken.

MINUTES OF OCTOBER 30, 2009

Mr. Smith requested that page 4, paragraph 4, be changed to read, “. . . that the Investment Committee *recommended for approval* an investment manager” He also requested that page 5, paragraph 4, be changed to read “. . . the Investment Committee held a discussion over its contents and *recommended it for approval for* submission to the Governor.”

Mr. Smith moved to approve the October 30, 2009, minutes as amended. Mr. Caldwell seconded and the motion was approved by a roll call vote of ten ayes and no nays. Mr. Bryan abstained.

AGENDA

Mr. Lhota announced the report of the Governance Committee will follow those of the other committees. He reported there would be no executive session. He reserved the right to recess the meeting at an appropriate time, if necessary.

Mr. Harris moved to adopt the agenda as amended. Mr. Bryan seconded and the amended agenda was adopted by a roll call vote of eleven ayes and no nays.

CHAIRMAN'S COMMENTS

Mr. Lhota reminded those in attendance that the committees do the heavy lifting of the Workers' Compensation Board through thorough review and discussion of proposals. He reported that on November 19, the committees of the Workers' Compensation Board met from 8:00 a.m. to 5:30 p.m. Attendance of all eleven directors was 100% at the meetings of the Actuarial Committee, Investment Committee, and Medical Services and Safety Committee. Because of scheduling conflicts, attendance at the Governance Committee and Audit Committee was 92%. This high attendance reflects the strong commitment of the Workers' Compensation Board to governance and workers' compensation reform and leads to the high efficiency of the Workers' Compensation Board meetings.

Mr. Lhota further reported that there had been a request to change the date of the September meeting to another date because of a conflict of a director. However, because there was a conflict with this change in date, governance procedures requirements direct that the date will not be changed. Mr. Lhota also announced that the Committee meetings next month will be scheduled back to back, such that if one Committee ends early, the next Committee will begin earlier.

COMMITTEE REPORTS

ACTUARIAL COMMITTEE

Mr. Bryan reported that the agenda of the Actuarial Committee was lighter this month and had only one action item, approval of the Actuarial Committee charter.

Mr. Bryan moved that the Workers' Compensation Board of Directors approve the amended Charter of the Actuarial Committee as recommended by the Actuarial Committee. Mr. Caldwell seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Bryan also reported that the Actuarial Committee had received a report from Joy Bush, Director of New Product Development, on the large deductible plan. BWC has adopted a small deductible plan. Larger deductibles raise credit issues because BWC will manage the claims, pay the benefits, and, potentially, bill the

employer rather large amounts. BWC is currently working out the details of credit review to approve participants. This plan will appeal to employers with large payrolls and effective safety programs.

BWC is conducting a state by state comparison study of workers' compensation rates. The objective is to ensure that Ohio is competitive. This has been difficult because of the impact of the group rating program on base rates. Rate reform has lead to lower base rates and employers use rates as a factor in locating their businesses in Ohio. Comparisons are difficult because of different states' industry mix and different workers' compensation benefits. Another objective is not to be dependent on other studies and sources for comparisons.

Mr. Bryan further reported that the Actuarial Committee received the quarterly report on implementation of the HB100 Comprehensive Report. There is steady progress occurring in more than one hundred recommendations.

Mr. Bryan reported that there had been a report on MIRA 2, the individual case reserving program. When the Workers' Compensation Board was first organized, there were many complaints about MIRA I and how difficult it was for employers to use. The update shows much success in implementation.

Finally, Mr. Bryan reported that the Actuarial Committee meeting concluded with an education session on reserving. Claims reserves are the biggest liability item on the balance sheet. Deloitte Consulting is the new consultant and may have a different reserve recommendation from Oliver Wyman Consulting. However, Mr. Bryan predicted that the new recommendation will be very close.

AUDIT COMMITTEE

Mr. Haffey reported the only action taken by the Audit Committee was approval of the committee charter.

Mr. Haffey moved that the Workers' Compensation Board of Directors approve the amended Charter of the Audit Committee as recommended by the Audit Committee. Mr. Bryan seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Haffey reported that Joseph Patrick, CPA, Schneider Downs, reported on the completion of the five month external audit and other reports. These included the separate report to the Governor and the Schneider Downs management letter. The external audit was filed September 30 and has been approved by the Auditor of State. There were no changes in financial results from other reports to the Workers' Compensation Board after June 30, 2009. Mr. Patrick also reported on the audit of the Managed Care Organizations (MCO) and specialized audits. The

management letter noted no material problems. The Statement of Auditing Standards 99 report gave a “gold star” to BWC for responsiveness, cooperation, and smooth functioning.

The Audit Committee also received a report from Bruce Hockman of Towers Perrin on reinsurance. The focus was on whether BWC should reinsure.

Caren Murdock, Chief of Internal Audit, reported on the audits and consulting engagements of the Internal Auditing Division.

INVESTMENT COMMITTEE

Mr. Smith reported that the Investment Committee had undertaken four actions at its meeting.

Mr. Smith moved that the Workers' Compensation Board of Directors approve the amended Charter of the Investment Committee as recommended by the Investment Committee. Ms. Falls seconded the motion.

Mr. Smith moved to amend the portion of the charter on “subcommittees” to change “Each subcommittee shall keep minutes of its meetings” to “The subcommittee will keep minutes of its meetings.” Mr. Price seconded and the motion to amend was approved by a roll call vote of eleven ayes and no nays.

The amended motion to approve the charter was approved by a roll call vote of eleven ayes and no nays.

Mr. Smith reported that the estimated market value of the assets of the investment portfolio were \$18.759 billion as of November 18, 2009, of which 68.6% was in fixed income investments, 29.8% in equities, and 1.6 % in cash. The portfolio value of stocks and bonds had increased \$435 million this month to date because of the run-up of the stock markets. The total return of the portfolio was a positive 9.7% over the first four months of fiscal year 2010 ended October 2009, consisting of a 20.4% return for equities and 6.7% in bonds over this period.

Bruce Dunn, Chief Investment Officer, and Guy Cooper, Mercer Consulting, gave a presentation on the Request for Proposal (RFP) selecting Barclays Global Investors as a fixed income manager for the State Insurance Fund. Barclays' representatives gave a presentation on services it performs.

Mr. Smith moved that the Workers' Compensation Board of Directors adopt the recommendation of the Investment Committee to approve Barclays Global Investors as the Long U.S. Government Fixed Income Passive Index manager for the State Insurance Fund, representing a targeted nine percent (9%) of the total

State Insurance Fund invested assets, for the reasons set forth in the presentation of the Passive Index Manager RFP Evaluation Committee dated November 19, 2009, and the memorandum prepared by Mercer Investment Consultants dated November 17, 2009, and upon such terms as are outlined in Barclays' Response to the Request for Proposals issued July 2, 2009, and such other terms as are favorable to the Bureau. Mr. Pitts seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Smith moved that the Workers' Compensation Board of Directors approve the recommendation of the Investment Committee to approve Barclays Global Investors as a Long U.S. Credit Fixed Income Passive Index manager for the State Insurance Fund for a portion of this asset class mandate, such portion representing a targeted eight percent (8%) of the total State Insurance Fund invested assets, for the reasons set forth in the presentation of the Passive Index Manager RFP Evaluation Committee dated November 19, 2009, and the Memorandum prepared by Mercer Investment Consultants dated November 17, 2009, and upon such terms as are outlined in Barclays Response to the Request for Proposals issued July 2, 2009, and such other terms as are favorable to the Bureau. Mr. Price seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Smith moved that the Workers' Compensation Board of Directors adopt the recommendation of the Investment Committee to approve Barclays Global Investors as a U.S. Treasury Inflation Protected Securities Fixed Income Passive Index manager for the State Insurance Fund for a portion of this asset class mandate, such portion representing a targeted twelve percent (12%) of total State Insurance Fund invested assets, for the reasons set forth in the presentation of the Passive Index Manager RFP Evaluation Committee dated November 19, 2009, and the memorandum prepared by Mercer Investment Consultants dated November 17, 2009, and upon such terms as are outlined in Barclays' Response to the Request for Proposals issued July 2, 2009, and such other terms as are favorable to the Bureau. Ms. Falls seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

Mr. Smith further reported that the Bureau's investment management fees are among the lowest for a portfolio of this size. Passive investment managers provide significant management fee cost savings. Mr. Price commended BWC on the overall management of the portfolio.

Mr. Smith finally reported that BWC performance for calendar year 2008 saw a decline in the total return of the investment portfolio of only 2.3%, whereas, the Standard and Poor's index declined 37%. The asset allocation has been criticized as conservative, but has worked very well to protect BWC assets at a critical time. Pursuant to the Investment Policy, there has been a modest asset reallocation.

MEDICAL SERVICES AND SAFETY COMMITTEE

Mr. Harris reported that the Medical Services and Safety Committee took one action at its meeting.

Mr. Harris moved that the Workers' Compensation Board of Directors approve the amended Charter of the Medical Services and Safety Committee as recommended by the Medical Services and Safety Committee. Mr. Bryan seconded the motion.

Ms. Falls moved to amend the charter in the section on "subcommittees" to change "Each subcommittee shall keep minutes of its meetings" to "The subcommittee will keep minutes of its meetings." Mr. Hummel seconded and the motion to amend was approved by a roll call vote of eleven ayes and no nays.

The amended motion to approve the charter was approved by a roll call vote of eleven ayes and no nays.

Mr. Harris reported the committee conducted a first reading of the rule to adopt fees for ambulatory services. The fee schedule presentation was conducted by Freddie Johnson, Director of Managed Care Services, and Anne Casto, Consultant, Medical Services. Some fees will be 110% of Medicare rate for 2010; all others equal the Medicare rates.

Tom Sico, Assistant General Counsel, and Robert Coury, Chief, Medical Services and Compliance, led a discussion on the first reading of the rule on rehabilitation services fees. Prior rules were withdrawn from the Joint Commission on Agency Rule Review (JCARR) consideration. The new proposal will follow existing statutes.

The Medical Services and Safety Committee received the annual report from Abe Al-Tarawneh, Superintendent of Safety and Hygiene. The report included comments received at the October public forum. There was a good discussion regarding the follow up from the public forum. Mr. Harris noted that the information provided is helping to keep the Board well-informed on safety issues.

GOVERNANCE COMMITTEE

Ms. Falls reported that the major change of the Governance Committee charter was a reduction from five directors to three to accommodate the new Medical Services and Safety Committee. The Governance Committee will begin committee meetings of the whole for items of common interest in January.

Ms. Falls moved that the Workers' Compensation Board of Directors approve the amended Charter of the Governance Committee as recommended by the Governance Committee. Mr. Pitts seconded the motion.

Mr. Price moved to amend the charter section on “subcommittees” to change, “Each subcommittee shall keep minutes of its meetings” to “The subcommittee will keep minutes of its meetings.” Ms. Falls seconded and the motion was approved by a roll call vote of eleven ayes and no nays.

The amended motion to approve the charter was approved by a roll call vote of eleven ayes and no nays.

Ms. Falls reported that the Governance Committee conducted a thorough page by page review and update of the Governance Guidelines that lasted approximately thirty (30) minutes. The changes are adding appendices of new policies and procedures adopted throughout the year, especially new provisions on the Funding Ratio, the Net Investment Ratio, and the discount rate; on reports to the Governor and General Assembly; and on public forums. There is a procedural change to initiate and adjourn executive sessions. Because this revision incorporates all major policies and procedures, Ms. Falls predicted that the Governance Guidelines will be a document that will stand the test of time and will need little modification in the future.

Ms. Falls moved that the Workers' Compensation Board of Directors approve the amended Governance Guidelines, as recommended by the Governance Committee. Mr. Caldwell seconded the motion.

Ms. Falls moved to amend the motion regarding the Governance Guidelines to revise the appendix of all revisions to the charters of the Workers' Compensation Board committees approved today. Mr. Pitts seconded and the amendment was approved by roll call vote of eleven ayes and no nays.

The amended motion regarding approval of the amended Governance Guidelines was approved by a roll call vote of eleven ayes and no nays.

Ms. Falls reported that the transition of all responsibility for rules on medical services and safety had been made to the Medical Services and Safety Committee.

Mr. Price thanked the Administrator and staff for all work on all changes to the charter. Mr. Smith noted specifically the work on the charters of Ms. Falls, Don Berno, Board Liaison, and Ann Shannon, Legal Counsel.

MONTHLY ENTERPRISE REPORT

Tracy Valentino, Chief, Fiscal & Planning, delivered the November Enterprise Report. She was very pleased to report that October 2009 was far better than October 2008.

Premium and assessment income was \$163 million, net of \$3 million for uncollectible accounts and a \$1 million reduction in other income, for \$159 million in operating revenues. The other income reduction was because of voiding of late-payments by the Adjudication Unit. Benefits and expenses were \$206 million and other expenses of \$8 million, yielding \$214 million in operating expenses. October included three bi-weekly payment cycles, increasing monthly benefits by approximately \$25 million. BWC undertook a first quarter reserve adjustment in October 2008. However, a September 30, 2009, review of the quarterly reserve analysis projecting reserves for June 30, 2010 indicates no adjustments were needed at this time.

The portfolio market value decreased by \$174 million. The portfolio earned \$58 million in interest and dividend income. After investment expenses, the net investment loss was \$116 million. Net assets decreased by \$172 million, resulting in \$3.7 billion in net assets.

Ms. Valentino reported that premium collections were \$26 million for October 2009, compared to \$148 million in October 2008. The difference was due to moving the second payment of the 50/50 program from October to December. For the twelve months year-to-date, net assets have increased by \$3.4 billion.

Benefits and compensation adjustment expenses increased by \$18 million for fiscal year 2010, compared to the same time last year. The net investment income fiscal year to date 2010 totals \$1.2 billion, comprised of \$650 in net realized losses and \$1,633 million in net unrealized gains, along with \$26 million in interest and dividend income, net of \$2 million in investment expense.

Fiscal year to date 2010 premium collections are \$146 million less than projected as a result of rate reductions and cash flow changes. Private employer participation in the 50/50 program declined and BWC expects to receive \$149 million by December 1; for 2008, it was \$176 million.

Mr. Bryan asked why employers would not participate at a greater rate for a program that has no cost. Ms. Valentino replied she was not sure, but guessed it was because of lower payrolls and fewer employers.

Ms. Valentino further reported that for the Administrative Cost Fund, BWC has spent less than 12.5% than the budget and 10.4% less than appropriated. This reflects the impact of cost savings days (CSDs) and the hiring freeze. BWC has delayed equipment purchases and is subject to additional controls by the Office of

Budget and Management. BWC employees have used 47% of CSDs so far, with a savings of \$2.6 million in payroll. More CSDs will be used over the holidays.

The statement of cash flows shows a significant decline comparing October 2008 to October 2009 because of the change of the 50/50 deadline. In the Statement of Net Assets, October 2008 reflected \$224 million, whereas for \$2009, it was \$3,452 million. As of October 3, 2009, the funding ratio was 1.22 and within the guidelines mandated by the Workers' Compensation Board. The Net Leverage Ratio was 4.94, also within the guidelines.

ADMINISTRATOR BRIEFING

Marsha Ryan, BWC Administrator, reported that the three weeks since the October meeting were active and fun-filled. The marketing for group rating has begun by sponsors and TPAs. The sponsors and TPAs have asked BWC to be vigilant over marketing. For example, a 65% discount and the break-even factor create a 51% lower rate and is the best an employer can get. Some early pamphlets have promised more, leading to BWC issuing consumer alerts to employers. The alerts include approved sponsor information.

BWC continues to conduct local roundtables with local business leaders. So far, roundtables have been conducted in Mansfield, Canton and Dayton. The presentations include rate reform, details of the HB 100 Comprehensive Report, and the significant decline in premium rates. District Service Office directors are involved with local business leaders in the discussions.

Ms. Ryan reported that BWC is required to adjust the payment rate each year for the Disabled Workers Relief Fund (DWRF). Under Ohio Revised Code 4123.62, BWC is required to derive the change from the Consumer Price Index (CPI) as calculated by the United States Department of Labor. However, on September 1, 2009, for the first time, there was a decrease in the CPI. So for 2010, BWC will freeze the DWRF rate, just as the Social Security Administration is doing for retirement, disability, and other benefits.

BWC received notification on November 12 that it would be receiving a portion of the settlement reached in a lawsuit brought by the Ohio Attorney General. The suit was filed in 2005 against Marsh & McLennan Companies for commission fraud. Marsh did not disclose that when it referred business to insurance carriers, the carriers would kickback a commission and that half its income came from commissions. BWC was a plaintiff because from October 1999 to October 2004 it invested in 74,000 shares and suffered \$5.2 million in losses. Other plaintiffs included the Ohio Public Employees Retirement System, the Ohio State Teachers Retirement System, and the New Jersey state pension funds. Ms. Ryan

commended Barb Ingram, Director of Accounting, and other staff in Fiscal and Planning for their work on the case, especially Ms. Ingram's deposition.

Ms. Ryan reported that the Ohio Senate had approved Resolution 118 to study the feasibility of private workers' compensation insurance in Ohio. Resolution 118 follows the proposal of Senator Tim Grendell and was passed along mostly party lines. Senator Grendell stated in debate that it did not compel funding from BWC and requested that BWC and the Ohio Department of Insurance provide funding. Senator Bill Seitz spoke highly of the Workers' Compensation Board, rate reform, and conformity to the requirements of HB100. Senator Fred Strahorn of Dayton called Resolution 118 a solution in search of a problem. Senators Joe Schiavoni and Eric Kearney called the resolution costly and a distraction.

HB318 is the budget correction proposal. There are proposed workers' compensation amendments to address the task force and require there be adequate reserves and rebates if BWC has over-reserved. HB318 is mired in the Senate because of debates on tax cuts and sentencing reform. SB213 has uncodified language to impose a moratorium on rate reform by freezing the credibility tables and break even factors. The bill also requires additional studies with the input of stakeholders and procedural steps in carrying out reform.

BWC employees exceeded the goal for the Combined Charitable Campaign (CCC). Despite the CSDs and salary reductions, 40% of employees donated \$311,000. Mr. Lhota requested that the minutes contain a commendation of BWC employees for their participation in the CCC.

EXECUTIVE SESSION

There was no executive session.

ADJOURNMENT

Mr. Lhota reported that the next meetings will be held on December 16 and 17. Committee meetings will be held at different times from this month.

Mr. Harris moved to adjourn the meeting. Mr. Haffey seconded and Mr. Lhota adjourned the meeting at 9:12 a.m. after the motion was approved by a roll call vote of ten ayes and no nays.

Prepared by: Larry Rhodebeck, Staff Counsel
H:\Word\ldr\WCB 1109.doc
November 24, 2009