

BWC Board of Directors

## **Board Meeting**

**Friday, January 23, 2009, 8:00 a.m.**

**William Green Building**

30 West Spring Street, 2<sup>nd</sup> Floor (Mezzanine)

Columbus, Ohio 43215

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Members Present: William Lhota, Chair  
Charles Bryan  
David Caldwell  
Alison Falls  
Kenneth Haffey  
James Harris  
James Hummel  
Thomas Pitts  
Larry Price  
Robert Smith

Members Absent: James Matesich.

### CALL TO ORDER

Chair Lhota called the meeting to order at 8 a.m.

### ROLL CALL

Roll call was taken by the scribe. All members were present, except for Mr. Matesich.

### DECEMBER 18, 2008 MINUTES

Motion was made by Mr. Harris, seconded by Mr. Caldwell, to approve the minutes. Roll call was taken and the motion to approve the minutes passed 10-0.

The meeting agenda was reviewed. There will be an executive session conducted at the end of the meeting. The meeting will adjourn immediately following the executive session. Motion was made by Mr. Hummel, seconded by Mr. Caldwell, to approve the agenda as amended. Roll call was taken and the motion passed 10-0.

## COMMITTEE REPORTS:

### GOVERNANCE COMMITTEE

Ms. Falls presented the Governance Committee report. There were no action items. Ms. Falls stated that Administrator Marsha Ryan provided an excellent report to the committee on leadership development. Further, an outline was provided to the directors as well as a table of organization with respect to senior management. There was discussion regarding the rule review process. A handout was included and is incorporated into the minutes. There is plan A, the current process, and plan B, a proposed alternative. The Board shall proceed with plan B, and continue with two readings, with waiver of the second reading when appropriate. The board may schedule additional committee meetings to consider rules presented by BWC staff. Mr. Price, Ms. Falls and Don Berno, Board Liaison, will meet to discuss further. Mr. Price noted that it is necessary to have a consistent process for rule review. He also cautioned the board to be patient in the development of the rule review process and rules presented for review by BWC staff.

### ACTUARIAL COMMITTEE

Mr. Bryan presented the Actuarial Committee report. Mr. Bryan discussed a new approach and plan to group rating. He stated that it is important to ensure that equitable rates are developed in any plan. There will be an introduction of a new element to the group rating plan. Any new developments must result in sustainability for both groups and non groups. John Pedrick, Chief Actuarial Officer, discussed the great amount of work that has been performed with respect to this effort. There is a need for direction for modification of the plan approved by the Board in June 2008.

Motion was made by Mr. Bryan, seconded by Mr. Caldwell, as follows: that the Bureau of Workers' Compensation Board of Directors consents to the Administrator's recommendation relating to the development of the elements of a comprehensive rating plan. The motion consents to the Administrator proceeding with the development of the elements of the comprehensive rating plan as presented to the Actuarial Committee. The Administrator shall provide the Board with periodic updates, including proposed rule changes, on the development of the rating plan. Roll call was taken and the motion passed 10-0. Mr. Price indicated that the Board has given the Administrator the go ahead to develop the plan, but then emphasized the importance of the Administrator subsequently presenting the plan to the Board for the Board's consideration. Mr. Bryan noted that this is facilitating a move to equitable rates.

Mr. Pedrick noted the importance of transitioning to the new credibility tables previously approved by the Board, which remains a necessary piece of the plan to improve the system. Mr. Pitts and Mr. Harris noted this is a complex issue, and noted the good presentations that have been made to the Board by senior management.

Motion was made by Mr. Bryan, seconded by Mr. Pitts, as follows: that the Bureau of Workers' Compensation Board of Directors consents to the Administrator's recommendation to amend Ohio Administrative Rule 4123-17-62 relating to extending the deadline for group rating, filing the AC-26 form, and removing an employer from a group for gross misrepresentation. The motion consents to the Administrator amending rule 4123-17-62 as presented at the Actuarial Committee. Roll call was taken and the motion passed 10-0.

Motion was made by Mr. Bryan, seconded by Mr. Hummel, as follows: that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Ohio Administrative Rule 4123-17-03 and 4123-17-71. The amendments establish a cap or limit on the annual increase in an employer's experience modification. Roll call was taken and the motion passed 10-0.

There is a February 27 deadline for a request for proposal for an actuarial consultant. The committee reviewed Deloitte recommendations, and further discussed a deductible plan. It was the first reading of the deductible plan. There was detailed evaluation of the actuary content for revision of the plan for group and non group.

#### AUDIT

Mr. Haffey presented the Audit Committee report. A report on the lump sum settlement consultant recommendations was made by Tina Kielmeyer, Chief of Customer Services, and Ray Mazzotta, Chief Operating Officer. Five key areas were summarized. An initial internal BWC team meeting was held January 22, 2009 to consider recommendations in the lump sum settlement consultant report. Implementation will be carried out in three phases. Mr. Pitts volunteered to participate as an observer for the lump sum settlement report and process developments. Mr. Lhota stated he appreciates individual Directors devoting extra time in their areas of expertise.

Caren Murdock, Chief of Internal Audit, provided an update on ten current audits. Two or three audits shall be completed by the February 2009 meeting. The Internal Audit department has Certified Public Accountants on staff. Mike Overmyer is the Investment / Compliance Program Manager. Joe Bell, from the Office of Budget and Management, provided a report on House Bill 166. Mr. Bell provided further discussion on the internal audit transition at the statewide level and the integration of the Bureau. Tracy Valentino presented an update of staff

responses to the external audit comments. There was one significant deficiency this year, and staff is addressing that issue. Of the other 12 comments, staff believes 8 are resolved, 2 are in process, and 2 are pending. In executive session, James Barnes, Chief Legal Officer, provided litigation updates with regard to pending litigation.

#### INVESTMENT COMMITTEE

Mr. Smith presented the Investment Committee report. Discussion was made of the portfolio update presented by Bruce Dunn, BWC Chief Investment Officer. Discussion was made of the rebalancing of the portfolio. The rebalance was successful and in accordance with policy. Mercer Consulting made a presentation on asset-liability modeling. More specifically, Mercer made a presentation on the allocation of assets to meet obligations within a range of a funding ratio. The Board will continue to look for more precise ranges of asset allocation as the issue is further evaluated. Ms. Falls requested that discussion be made by Mr. Dunn with regard to State Street. Mr. Dunn noted that approximately \$11.5 billion dollars of BWC assets are managed by State Street Global Advisors. Earnings reports for State Street have not been well received. Mr. Dunn has met with its new chief executive officer. It is important to distinguish State Street Global Advisors from its parent corporation. Global Advisors itself has increased market share, and is well positioned for a positive outlook. They do have an off balance sheet program, consisting of asset backed securities and commercial paper. Reserve losses had to be increased. There is a need for more in depth research. State Street Global Advisors continues to maintain an outstanding platform, the core business is strong, and is subject to heavy regulation. The firm has excellent repetitive revenues, at the advisory level is well managed, and is gaining market share. The firm is increasing market share as more clients move from active management towards passive management. The Bureau shall continue to watch the firm closely, and will meet face to face with management of the firm, on at least a quarterly basis.

Mr. Dunn described a plan for handling a default by State Street. Mr. Bryan inquired in great detail on this issue. Mr. Dunn noted there is no possibility of asset loss. State Street does not have custody of the Bureau's assets. Instead, JP Morgan has such custody. Director Falls noted that State Street received \$2 billion in the first distribution of TARP monies. State Street has been deemed "to big to fail" by the federal government.

#### MONTHLY ENTERPRISE REPORT:

The enterprise report was presented by Tracy Valentino, Chief of Fiscal and Planning. Financial statements were reviewed and discussed at length. A report and PowerPoint presentation are incorporated by reference into the minutes. Net operating income for December 2008 was \$32.4 million. Net investment income for December 2008 was \$1.33 billion. The increase in net assets in December 2008 was almost \$1.4 billion. The net asset balance as of December 31, 2008 is

\$2.3 billion. The marked to market impact is reflected in the statements. Premium collection was five percent greater than anticipated. Ohio employment decreased substantially, thus, the Bureau anticipates a decrease in premium collections. The Bureau is sensitive to cost containment, in an effort to ensure that our cash flow is such to meet our monthly expenses. The fiscal year 2007 early retirement buyout is reflected in the statements. Mr. Price inquired as to the impact of reorganization expenses. Mr. Price inquired as to the increase in participation in the safety program. Administrator Ryan noted that the Bureau is paying great attention to participation in such programs. The Bureau is measuring the impact of such participation, including the impact of Safety Council. Creating the correct rate for the correct risk considers numerous variables the Bureau is aggressively measuring. Evaluation of the contribution of all programs is necessary for understanding decreases in costs, with specific focus on individual employers, to determine what their specific cost driver is. Ms. Falls inquired as to the measure of stability. Ms. Valentino discussed a change of five percent and \$500 in premium, to define an unstable premium. Mr. Pedrick explained experience modifier and variable rates transition to a split plan. The transition to a split plan will initially cause volatility, but eventually create stability for experience modifiers, thus enabling employers to project costs.

#### STRATEGY DISCUSSION

Don Berno, Board Liaison, gave a presentation on a reserve discount rate policy. A handout is included and incorporated by reference into the minutes. The Bureau needs to adopt a policy, and a proposal is incorporated into the minutes. Although the Administrator has the authority to set the discount rate, this policy sets forth the process to develop and present a rate to the Board for evaluation and approval, as set forth by R.C. 4121.121(B)(1). Such a policy will provide transparency and guide the Board in the future. There was discussion about the methodology and guiding principles for developing a rate. It is important to recognize the time value of money to predict a prudent picture of liabilities. The method discussed is supported by the Governmental Accounting Standards Board (GASB) and the Actuarial Standards of Practice. This policy, if approved by the Board, will operate to reduce volatility in estimating reserves. Mr. Bryan inquired as to whether timing and frequency should be included in policy.

This will be investigated further. Ms. Falls indicated that when a recommendation is made to the Board, it should include the Administrator's rationale, and key background information as to how the recommendation was formulated. There was discussion of the possibility of including a definition of "risk-free" rate of return indicator. Mr. Berno pointed out that GASB went to great lengths to not define such a term.

#### LEGISLATIVE UPDATE

Gregg Paul, Legislative Liaison, presented an update on current legislative matters to the Board, including an overview of the new General Assembly leadership and associated dynamics. The House convened January 6, 2009, with thirty-three of the ninety-nine members being new. The balance is fifty-three Democratic members and forty-six Republican members. The new Speaker of the House is Armond Budish. The Bureau's Legislative Affairs staff meets regularly with the General Assembly. The Bureau's annual budget bill will be introduced in early 2009 for the 2010/ 2011 biennial budget. A bill to allow private insurance companies to compete with BWC may be introduced. The bill may also call for a reduction of twenty-three cabinet level agencies to nine cabinet level agencies. A meeting with Representative Grendell is set for January 28, 2009. There was discussion of professional employer organization revision legislation. House Bill 79 was signed January 6, 2009, concerning Workers' Compensation Council spending, group rating, as well as rate reform concerning the group rating process. Mr. Pitts discussed the legal issue of privatization, noting there was a constitutional question involved.

#### ADMINISTRATOR BRIEFING:

Administrator Ryan presented to the Board. Ms. Ryan discussed at length the focus on cost containment, improvement of efficiencies, and fiscal responsibility. The agency is reviewing its contracts with external parties to determine if and where reductions can be made. Governor Strickland shall make his State of the State speech on Wednesday, January 28. There was discussion about personnel changes, including the departure of Keary McCarthy, Chief of Communications, to assume a position with the Speaker of the House.

Tina Kielmeyer, Chief of Customer Services, Tom Woodruff, Interim Director of the Self- Insured Department, and the Administrator planned to attend and speak at the Education Day meeting of the Ohio Self Insuring Association on Friday afternoon, January 23. The Bureau and other state agencies continue to explore data sharing agreements relating to employer classification of workers. Such agreements would be subject to rigorous confidentiality requirements. Senate Bill 334 and House Bill 562, regarding interstate jurisdiction, became effective. Two rules on this topic are now in effect with another rule subject to review by the Joint Committee on Agency Rule Review of the General Assembly.

Upon motion by Mr. Harris, seconded by Mr. Haffey, the Board entered into executive session at 9:55 am, for the purpose of discussing pending litigation.

Roll call was taken, and the motion passed 10-0. There was a brief recess prior to the commencement of the executive session.

Upon motion by Mr. Harris, seconded by Mr. Caldwell, the Board returned from executive session. Roll call was taken and the motion passed 10-0. Immediately subsequent to leaving executive session, a motion by Mr. Pitts, seconded by Mr. Smith, was made to adjourn the Board meeting. Roll call was taken, the motion passed 10-0, and the meeting was adjourned at 10:47 am.

January 23 Board minutes prepared by: Thomas Woodruff, Interim Director Self Insured Department