

BWC Board of Directors

**Board Meeting**

**Friday, February 20, 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**

Mr. 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.

**JANUARY 23, 2008 MINUTES**

Motion was made by Mr. Pitts, seconded by Mr. Haffey, to approve the minutes. Modifications were made to the minutes as follows: revision of the last sentence in the Governance Committee section, noting that the Board is cautioned “to be patient in the development of the rule review process and rules presented by the BWC staff.” In line four of the next full paragraph on page two, four lines from the bottom, the word sustainability is stricken, and replaced with the word equitability. In the second to last paragraph of the last page, the minutes should be modified to note that the “Board moved to enter into executive session.” In the last paragraph of the last page, the minutes should be modified to note that the “Board moved to return from executive session.” Roll call was taken and the motion to approve the minutes, as amended, passed 10-0. Mr. Lhota requested that in the future page numbers should be added to the minutes.

The meeting agenda was reviewed. Mr. Lhota noted there will not be an executive session for this meeting. He requested that he be given the flexibility to include a break, if necessary. Mr. Bryan requested that the addition of a motion regarding the Drug Free Workplace and Safety Council Programs be made to the agenda. Motion was made by Mr. Price, seconded by Mr. Smith 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. The committee held the first reading of Health Partnership Plan rules regarding the alternative dispute resolution process (OAC 4123-6-16.) The committee calendar was reviewed and it was noted that the Governance Committee will be meeting every month except December in order to go over rules. Administrator Marsha Ryan updated the Committee regarding a candidate for the Superintendent of Safety and Hygiene position.

### ACTUARIAL COMMITTEE

Mr. Bryan presented the Actuarial Committee report. Motion was made by Mr. Bryan, seconded by Mr. Hummel, as follows: that the Bureau of Workers' Compensation Board of Directors consents to the Administrator's recommendation to adopt new rule 4133-17-72 relating to a deductible program. The motion consents to the Administrator adopting the rule 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. Pitts, as follows: that the Bureau of Workers' Compensation Board of Directors consents to the Administrator's recommendation to amend group rating rules 4123-17-61 and 4123-17-68 and to adopt new rule 4123-17-61.1 relating to group sponsorship certification. The motion consents to the Administrator amending and adopting the rules as presented at the Actuarial Committee. Roll call was taken and the motion passed 10-0.

Motion was made by Mr. Bryan and seconded by Mr. Caldwell as follows: that the Workers' Compensation Board of Directors approve the recommendation of the Actuarial Committee that neither the Drug Free Workplace Program, nor the Safety Council Program be eliminated for the policy year beginning July 1, 2009. Roll call was taken and the motion passed 10-0. Mr. Smith noted that further analysis is required with respect to discount programs.

Mr. Bryan noted that because of time issues, a number of agenda items were deferred.

Mr. Price commended the Administrator and the Bureau staff with regard to the robust discussion spurred by their detailed work. Mr. Pitts expressed agreement with Mr. Price. The Bureau staff work is invaluable, more specifically the public forums permit diverse points of view to be exchanged on issues. Mr. Harris noted the public forums are terrific, and the more information provided to the Board the better.

#### AUDIT

Mr. Haffey presented the Audit Committee report. There were no action items. There were several presentations. Presentation was made by Tracy Valentino, Chief of Fiscal and Planning, on the statement of net assets and accrual accounting. Presentation was made by Barb Ingram, Director of Accounting, on the Money Talk program, a new monthly feature on the intranet, which is further linked to the monthly enterprise report. This month's Money Talk program featured an interview with Bruce Dunn, Chief Investment Officer, on market volatility with regard to investments. Caren Murdock, Director of Internal Audit, discussed several audits from the fiscal year 2009 second quarter executive summary. Don Berno, Board Liaison, discussed a November 2008 report from the Association of Governmental Accountants which reviewed the practices of other public sector audit committees from across the country. The Audit Committee will use this study for benchmarking purposes.

#### INVESTMENT COMMITTEE

Mr. Smith presented the Investment Committee report. Discussion was made of the portfolio update presented by Mr. Dunn. The portfolio declined five percent in January 2009, primarily due to a decline in the bond market. However, the portfolio had a positive return of 0.4 percent for the current month through Wednesday, February 18. The portfolio had a negative total return of 2.3 percent over the calendar year. Discussion was made of Mercer Consulting's presentation on asset / liability modeling, and funding ratio objective. It was noted that Mercer has acquired an investment consulting firm to strengthen its resource base. Mr. Smith mentioned that Lee Damsel reported on the transition manager RFP, and the initiation of a black-out period effective February 19, 2009. Mr. Caldwell noted the invaluable work of the staff and the Administrator, and the enlightening impact it has on the Board.

#### MONTHLY ENTERPRISE REPORT:

The enterprise report was presented by Ms. Valentino. Financial statements were reviewed and discussed at length. A report and power point presentation are incorporated by reference into the minutes. There were \$164 million dollars in operating revenue in January 2009. As of December 31, 2008, net assets were \$2.3 billion. As of January 31, 2009, net assets were \$1.4 billion. Discussion was made of accounting methods used to develop the enterprise report. Premium collection for January 2009 was \$134 million. This collection of premium is for the period ending June 30, 2008. This is \$70 million less than

projected. The collection of premium is slower. Cash receipts are monitored daily. There are payments that have been deferred to the end of February 2009, as a result of new technology employers may use. Mr. Bryan inquired as to what happens if premium ends up never collected, as opposed to collections simply being slower. Ms. Valentino indicated that there would be a downward adjustment to income, determined every six months, and the Bureau will more closely monitor expenses. Mr. Price inquired as to whether the Bureau is tracking an increase in claims. It was noted that there has been a decrease in claim filings. Mr. Haffey raised discussion with regard to premium collection and timing. Generally, premium collection is greatest in January and February, and then in July and August (two times per year, the premium bills are issued). There will be some collections not related to private employers and the normal business cycle.

Administrator Ryan noted that under the leadership of Tina Kielmeyer, Chief of Customer Services, the customer service call center will be open on Saturday February 28th, between the hours of 9:00 am and 2:00 pm, to accommodate customers on premium payment matters. Mr. Price is surprised the Bureau is not having a greater decrease in claim filings due to the current condition of the economy. Mr. Price understands the circumstances of why premium payments are slow. Ms. Valentino noted the Bureau is monitoring payments with respect to the 50/50 plan, as well as the payment plans managed through the office of the Attorney General.

#### STRATEGY DISCUSSION

A presentation was made by Mr. Berno with regard to the ongoing development of a transparent process for guiding the Bureau and the Board in the development of a written discount rate policy. The effective date is to be July 1, 2009. Mr. Berno reviewed the calendar for developing the policy. Motion was made by Mr. Harris, seconded by Mr. Smith, as follows: that the guidelines for the process of developing a written discount rate, as discussed today, February 20, 2009, are approved. Mr. Bryan inquired as to whether or not there would be annual changes. Mr. Berno noted the rate would be reviewed at least annually, but not necessarily changed. Administrator Ryan noted the rate would be reviewed at least annually, perhaps more often as circumstances warrant. The process may eventually allow for more frequent changes as discussed by Mercer Consulting. Ms. Falls noted the distinction between changing the discount rate and changing the process and policy. The policy will be incorporated by reference into the Board's Governance Guidelines. Mr. Smith agrees with Ms. Falls, and suggested the Board consider annually a range for the rate to fall. Mr. Price noted it is important to put a process in place. Roll call was taken and the motion passed 10-0.

#### ADMINISTRATOR BRIEFING:

Administrator Ryan presented to the Board. Greg Shultz was introduced as the liaison with the Governor's office. Ms. Ryan provided an update on the budget,

noting the first hearing with the House Insurance Committee was held this week. Ms. Ryan commended the Bureau staff for its research and presentations made at the committee hearing.

The Attorney General has issued a press release and a report regarding employee misclassification and its costs. It is believed that between \$96 million and \$500 million is lost with regard to workers' compensation premiums. This estimate is based upon a review of premiums and taxes lost in other states, as a consequence of employee misclassification. The next step is an interagency task force, designed to address the misclassification issue. The Bureau representative on the task force is Ann Shannon, Legal Counsel. Mr. Bryan inquired as to how money recovered would be characterized. Ms. Ryan noted it would be characterized as premium. Mr. Harris commended Administrator Ryan and Governor Strickland for taking the initiative to address this issue. This is a very serious issue, especially in the construction industry. This practice results in both the exploitation of workers and renders law abiding employers unable to compete in the market. Mr. Haffey inquired as to whether or not a no coverage claim triggered investigation into the employer's non compliance. Administrator Ryan answered yes, and the Bureau is further developing new tools to combat noncompliance. Mr. Caldwell further commended the Administrator and the Bureau staff with regard to their efforts on this issue. Mr. Caldwell inquired as to how compliance is enforced. Ms. Ryan noted there will be a task force that will analyze the issues involved. There may be a need to develop new laws, as well as interagency agreements for cooperation in this matter. Mr. Pitts noted it is important to root out deception in all realms of workers compensation. However, the emphasis needs to shift to more fully include employers, based upon numbers that would warrant such a shift in emphasis.

The Workers' Compensation Council now has appointments from the Ohio Senate. The appointments include Senators Keith Faber, Joseph Schiavoni, and Steve Buehrer.

Discussion was made of a national committee formed to evaluate workers' compensation laws nationwide. The committee will study each state, with a focus on assessing whether or not there is a bias towards decreasing injured workers' benefits. Mr. Pitts made mention of a similar 1972 initiative, and its significance with regard to impacting the development of laws since then. There was mention of an article addressing privatization issues concerning workers compensation.

Ms. Ryan reported that she recently took part in a speaking engagement with the AFL-CIO annual workers' compensation seminar, and will be speaking next Friday with the MCO league.

On a final note, Ms. Ryan reminded the Board that financial disclosure filings are due April 15.

ADJOURN

Motion was made by Mr. Hummel, seconded by Ms. Falls, to adjourn the meeting at 9:10 am. Roll call was taken and the motion passed 10-0.

February 20 minutes prepared by: Tom Woodruff, Director Self Insured Department