

BWC Board of Directors

Board Meeting

Friday, March 20, 2009, 8:00 a.m.

William Green Building

30 West Spring Street, 2nd Floor (Mezzanine)

Columbus, Ohio 43215

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

Members Absent: None

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.

FEBRUARY 20, 2009 MINUTES

Motion was made by Mr. Hummel, seconded by Ms. Falls, to approve the minutes. Modifications were made to the minutes as follows: revision of the first sentence in the Strategy Discussion section on page 4, with respect to development of a transparency process for guiding the Bureau, with following addition "and the Board". Also on page 4, in the last paragraph of the Monthly Enterprise Report section, in the sentence beginning "Mr. Price is surprised the Bureau is not", the verbiage "receiving more claim filing decreases" is stricken, and replaced with "having a greater decrease in filing".

Roll call was taken and the motion to approve the minutes, as amended, passed 11-0.

The meeting agenda was reviewed. Mr. Lhota noted there will not be an executive session for this meeting. Motion was made by Mr. Haffey, seconded

by Mr. Hummel, to approve the agenda as amended. Roll call was taken and the motion passed 11-0.

COMMITTEE REPORTS:

GOVERNANCE COMMITTEE

Ms. Falls presented the Governance Committee report. There were two action items. The committee held the second reading of Health Partnership Plan rules regarding the alternative dispute resolution process (OAC 4123-6-16.)

Motion was made by Ms. Falls, seconded by Mr. Hummel, to consent to the Administrator's recommendation to amend Rule 4123-6-16 relating to the Alternative Dispute Resolution process in the Health partnership program. Roll call was taken and the motion passed 11-0.

A candidate for the Superintendent of Safety and Hygiene position has been selected. It was noted that it was very helpful for Director Harris to be part of the selection process.

Motion was made by Ms. Falls, seconded by Mr. Harris, that the Board consent to the Administrator's recommendation to hire Ibraheem Tarawneh as Superintendent of Safety and Hygiene. Roll call was taken and the motion passed 11-0.

A first reading was held on several safety-related rules. Ms. Falls noted the next meeting is set for 3 hours on Tuesday, April 28 for rule review. A second meeting will also be held at 8 AM on Wednesday, April 29 for executive session to discuss the Administrator's performance review. After discussion, it was determined to hold this meeting at 12:00 on the 29th, and the Investment Committee meeting at 2:00. Board Liaison Don Berno will facilitate a revised schedule.

ACTUARIAL COMMITTEE

Mr. Bryan presented the Actuarial Committee report, initially consisting of an extensive review of the proposed rate-making methodology. Highlights include the overall base rate decrease to private employers of 12%, noting that this consists of a 25.3% decrease for non-group employers and a 9.6% increase to group employers.

Stacking of the DFWP discount will no longer be available to group employers. Upon questioning from Mr. Price, Mr. Lhota pointed out that this was only a first reading. Discussion was had with respect to the impact on safety incentives. John Pedrick, Chief Actuarial Officer, and Tina Kielemeyer, Director of Customer Services, provided further explanation that increased safety is factored into the new experience ratings through reduced risk and cost, and there are other

programs where employers can recognize significant savings such as DFWP grants, deductible and group retro.

Mr. Caldwell stated that safe workplaces are paramount, and he would not support the proposed motion if he didn't believe the Board was doing the right thing to promote workplace safety, which in turn impacts premiums.

Mr. Price cautioned against implementing changes too quickly.

Motion was made by Mr. Bryan, seconded by Mr. Caldwell, as follows: that the Board adopt the overall rate change recommendation as presented by the Administrator and as approved by the Actuarial Committee. The Committee recommends the adoption of the Administrator's rate making methodology to establish equitable rates between group and non-group employers. The Bureau shall prepare the necessary rules to implement the recommendations and shall present to the Board any rule changes relating to the rate making methodology approved by the Actuarial Committee. Roll call was taken and the motion passed 11-0.

Motion was made by Mr. Bryan, seconded by Mr. Caldwell, as follows: that the Board consent to the Administrator's recommendation to amend Rule 4123-17-62, "Application for Group Rating Experience", to permit group sponsors additional time to provide notice to employers in 2009. This extension would be from March 30, 2009 to April 6, 2009. Roll call was taken and the motion passed 11-0.

Mr. Bryan noted that a first reading was held on the group retrospective rules to become effective July 1, 2009. These will be brought to the Board in April.

Mr. Harris commended Mr. Pedrick and the Actuarial staff for all their work in this area. Mr. Pedrick specifically recognized the contributions of his staff.

AUDIT

Mr. Haffey presented the Audit Committee report. There were no action items. There were several presentations. Presentation was made by Joe Bell, Chief Audit Executive for the Office of Budget and Management, regarding the state risk assessment and state audit committee process. Presentation was made by Tracy Valentino, Chief of Fiscal and Planning, on the cash flow statement, particularly with respect to how changes in the discount rate affect profit/loss. Presentation was made by Keith Elliott, Internal Audit Manager, regarding the annual risk assessment to assure audit resources are properly delegated. Caren Murdock, Director of Internal Audit, discussed current audit activity and the validation of prior comments. Ms. Kielmeyer discussed the lump-sum settlement program update. Don Berno, Board Liaison, discussed a best practices checklist for internal auditing in a government setting. The Audit Committee is on target with all characteristics of an effective audit committee.

INVESTMENT COMMITTEE

Mr. Smith presented the Investment Committee report. Discussion was made of the portfolio update presented by Chief Investment Officer Bruce Dunn. The portfolio increased 3.2% through March 18, 2009, offsetting losses in February.

Motion was made by Mr. Smith, seconded by Mr. Caldwell, as follows: that the Board consent to the Administrator's recommendation to authorize the Administrator to renew the BWC consulting agreement with Mercer Consulting for one year beginning July 1, 2009. Ms. Falls noted she was very impressed with Mercer's abilities as a firm. Roll call was taken and the motion passed 11-0.

Mr. Smith noted that the Committee continues to work with Mercer on asset / liability modeling, and funding ratio objective. Recommendations will be brought to the Board next month.

Motion was made by Mr. Smith seconded by Mr. Hummel, as follows: that the Investment Committee recommend to the Board that it transfer and convert the large cap U.S. equity portfolio currently passively managed by Northern Trust for the Disabled Workers' Relief Fund to a passively managed commingled account named the "NTGI-QM Common Daily S&P 500 Index Fund-Nonlending" that is currently managed by Northern Trust, effective July 1, 2009, for the reasons set forth in the memorandum of the Chief Investment Officer dated March 9, 2009. Roll call was taken and the motion passed 11-0

Motion was made by Mr. Smith, seconded by Ms. Falls, as follows: that the Investment Committee recommend to the Board that it transfer and convert the large cap U.S. equity portfolio currently passively managed by Northern Trust for the Coal Workers' Pneumoconiosis Fund to a passively managed commingled account named the "NTGI-QM Common Daily S&P 500 Index Fund-Nonlending" that is currently managed by Northern Trust, effective July 1, 2009, for the reasons set forth in the memorandum of the Chief Investment Officer dated March 9, 2009. Roll call was taken and the motion passed 11-0

Mr. Smith reported on a presentation by Lee Damsel, Director of Investments, of the required annual summary trade activity report. Ms. Damsel reported very low trading costs and no unusual activity. The report will be posted on the BWC website.

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.

Net assets decreased by \$506 million in February 2009. This is now the same level as November 2008. There were net losses, both realized and unrealized, of

\$515 million. Book value was written down on some impaired investments from the late 1990's - early 2000's. There is a decrease of \$36 million from fiscal 2008 due to unpaid accrued premiums.

Claim payments totaled \$152 million along with \$12 million in claim settlements. Claim payments are down \$55 million. Payments from the OHA lawsuit continue to be finalized. Benefit and compensation payments are down over \$700 million because of reduction in reserve balances. For FY2009, premium collections are 2% higher than expected. 50/50 plan employers increased 20%. BWC believes it is better to collect half the premium and ease cash flow issues rather than lapse employers. Lapse numbers remain constant, as do new employer coverage applications at 2,000 per month. Per a question from Mr. Matesich, Ms. Valentino clarified that this figure does not include reinstated lapsed employers.

DISCOUNT RATE RECOMMENDATION

Administrator Ryan recommended that the reserve discount rate be set at 4.5% for the rate year commencing July 1, 2009. Documents from Mercer Consulting and Chief Investment Officer Bruce Dunn, indicating the methodology and recommending approval of the rate, were reviewed.

Ms. Ryan stated that this figure more accurately represents investment returns over time. The 5% figure will be reflected until June 30, 2009 and continue through September, at which time adjustments will be made to 4.5% per the Schneider Downs audit.

Per questioning from several of the directors on why the change should not be adopted effective immediately, Ms. Valentino clarified that these adjustments will be made to the effective date of the revised rate, and it is preferable to comprehensively review all assumptions impacting reserves at the same time. Ms. Falls stated it makes sense to ask the Audit Committee to determine how to proceed going forward in conjunction with Ms. Valentino and the auditors.

Motion was made by Mr. Smith, seconded by Mr. Matesich, as follows: that the Board consent to the Administrator's recommendation to adopt a 4.5% discount rate effective at a date to be determined by the Board, upon the recommendation of the Audit Committee. Roll call was taken and the motion passed 11-0.

OMBUDSMAN ANNUAL REPORT

A presentation was made by Michael Travis, Chief Ombudsman with regard to the 2008 Annual Report. This is available on the BWC website. Mr. Travis noted the cooperation received from the Industrial Commission and BWC management. The Ombuds Office is created by statute to resolve problems from workers' compensation stakeholders, recommend overall opportunities for improvement, and issue an annual report.

Mr. Travis noted there were 10,000 complaints for the year, addressed by his staff in a very hands-on manner. This is a 5% increase for the year, and complaints are up a further 11% for the first two months of 2009.

Items addressed from the 2007 report include improving the medical ADR process, clarifying interstate jurisdiction issues through statutory changes and marketing to employers, creating a team for non-compliance education and enforcement, reducing the economic costs of space vacancies in the William Green building, and recommending changes to the claim settlement process.

Going forward in 2009, the Ombuds Office will focus on out-of-state medical treatment for injured workers, revision and reduction of BWC forms, and inconsistency in IC orders, along with doing their own "best practices" analysis per direction from the legislature that all Ohio agencies create an Ombuds Office. No staff increases are planned.

A break was then taken from 9:45 to 10:05.

STRATEGY DISCUSSION

A presentation was made by Mr. Berno with regard to establishment of a net asset funding policy by June 2009. This was made a highest priority item by Deloitte. A discussion draft is incorporated by reference into the minutes, with the correction that the funded assets figure should be 20 billion, 316 million. Mr. Berno went through a calculation example of computing the funding ratios using February 2009 figures. Per a question from Ms. Falls, it was clarified that this does not apply to the Administrative Cost Fund or the Self-Insured Employer Guaranty Fund. Risks impacting the funding ratio were also discussed.

Mr. Berno emphasized the need to stress a range within which the Board is comfortable. More information and projections will be presented at the April meeting. Mr. Smith asked that the target funding ratio figure be presented at that time.

Mr. Bryan requested more discrete information on what comparable entities do, particularly the state of Washington and other competitive state funds. Ms. Falls noted that a range is the most appropriate method to provide for fluctuations, and Mercer Consulting should be asked about the Deloitte language regarding a 95% confidence interval.

ADMINISTRATOR BRIEFING:

Administrator Ryan presented to the Board. Ms. Ryan initially thanked the Board for achieving transparency and solid, documented policy. She then provided an update on the budget, noting it had passed the House Insurance and Finance Committees and was headed to the House floor next week. No significant changes were made. The budget should reach the Senate in mid-April.

Ms. Ryan met with the Workers' Compensation Council, which has new members. A discussion was had whether the Council should perform its own actuarial analysis, or if this would merely be a costly duplication of the work of Oliver Wyman and Deloitte. Further discussion will be had.

The release date for the Deloitte report is March 30, 2009. An executive summary will be posted by that date on the BWC website.

The Measles class action case was dismissed by the Cuyahoga County Common Pleas Court and sent to the Court of Claims. This was an attempt to certify a class action regarding lump-sum advancements in PTD claims. The court held this was a contract issue as there was no statutory right to a lump sum.

Ms. Ryan discussed certain staff changes, including closure of the Springfield service office and consolidation with Dayton. This will save over \$750 thousand per year. Statewide, teleworking is being eliminated for 97 employees, resulting in \$200 thousand in savings for provision of home internet access and state vehicles.

The Board viewed a video tutorial on how to complete a C-9 for medical treatment authorization. This is part of a plan for educating new medical providers, so BWC can recruit and retain top-notch providers. Nine videos have been produced on different subjects.

On a final note, Ms. Ryan reminded the Board that Safety Congress is set for March 31 through April 2 at the Columbus Convention Center. BWC has provided attendees with the ability to print materials on-line. There will be a further report in April.

OTHER BUSINESS

Mr. Lhota reminded the directors that ethics disclosure forms must be filed by April 15. He commended the BWC staff for their efforts to educate the Board each month, the directors for their support of one another, and the Administrator for her flexibility and ongoing efforts.

ADJOURN

Motion was made by Mr. Matesich, seconded by Mr. Haffey, to adjourn the meeting at 10:50 am. Roll call was taken and the motion passed 11-0.

March 20 minutes prepared by: Jill Whitworth, Staff Counsel, Legal Division.