

BWC Board of Directors

Board Meeting

Thursday, April 30, 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

Counsel Present: John Williams, Assistant Attorney General

CALL TO ORDER

Mr. Lhota called the meeting to order at 8:01 a.m.

ROLL CALL

Roll call was taken by the scribe. All members were present.

MARCH 20, 2009 MINUTES

Motion was made by Mr. Harris, seconded by Mr. Pitts, to approve the minutes.

Modifications were made to the minutes as follows: revision of the second sentence in the second full paragraph on page 7, with respect to funding ratio comparison with comparable entities, to read "Ms. Falls noted that a range is the most appropriate method to provide for fluctuations".

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 a legislative update or an executive session for this meeting. Motion was made by Mr. Hummel, seconded by Ms. Falls, 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 committee meetings this month. At the regular committee meeting on April 28, the committee deferred action on three sets of rules set for second reading to provide for additional discussion of the intent and nuance regarding the terms “guard” and “safeguard”. There was also a first reading of five additional rules.

The committee was very impressed with the chart included with the vocational rehab rules, presented by Freddie Johnson, Director, Managed Care Services. The committee commends this to the Board for its thoroughness and value, particularly with respect to stakeholder input, BWC response and resolution. While recognizing preparation is time-consuming, consideration should be given to doing this for all rules to provide the Board with opportunity for review.

The second meeting, held on April 29, was to initiate the Administrator’s review. All Board members except Mr. Pitts, along with Fiduciary Counsel Ron O’Keefe, were present. An executive session was held, followed by an open session.

Motion was made by Ms. Falls, seconded by Mr. Price, that the Board consent to the Governance Committee recommendation to approve the Administrator’s evaluation form and process timeline memo. Mr. Lhota noted that Mr. Pitts will be abstaining from the vote based upon an Ethics Commission opinion that applies to the Director holding the employee representative appointment. Roll call was taken and the motion passed 10-0.

ACTUARIAL COMMITTEE

Mr. Bryan presented the Actuarial Committee report, initially summarizing the rate changes previously discussed with the Board, including changes to the discount rate, group and non-group rates, and medical trend inflation rate. Motion was made by Mr. Bryan, seconded by Mr. Matesich that the Bureau of Workers’ Compensation Board of Directors approve the Administrator’s recommendations relating to the private employer rate rules, beginning July 1, 2009. The motion consents to the Administrator amending rules 4123-17-05 and 4123-17-06 of the Administrative Code as presented here today. Roll call was taken and the motion passed 11-0.

The next item was the recommended change to the experience modifier (EM) to provide for a cap of 100% annual increase to EM’s of at least 1.01. Motion was made by Mr. Bryan, seconded by Mr. Pitts, that the Bureau Of Workers’ Compensation Board of Directors approve the Administrator’s recommendations to amend Rule 4123-17-03 of the Administrative Code.

The motion consents to the Administrator amending the rule as presented here today. Roll call was taken and the motion passed 11-0.

The next item was a new rule adopting a group retrospective rating program. Mr. Bryan gave a brief summary of the proposed rule. The Actuarial Committee will receive

periodic briefings on this new program. This is an industry standard program. The staff and Board will have to carefully monitor the loss development factors. Motion was made by Mr. Bryan, seconded by Mr. Smith that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendations to adopt Rule 4123-17-73 Of the Administrative Code, Group Retrospective Rating Program. The rule creates a group retrospective rating program for employers. The motion consents to the Administrator amending the rule as presented here today. Roll call was taken and the motion passed 11-0.

Mr. Pitts commended Joy Bush and her staff for developing this program in an expedited time frame. Mr. Smith noted that while monitoring is important, in all likelihood the program will start slowly and will be evaluated over a period of years.

The next items were changes to the rules concerning the premium discount and drug-free workplace programs. Mr. Bryan emphasized that safety emphasis has not been diminished by these changes, and the changes were the subject of extensive debate. Motion was made by Mr. Bryan, seconded by Mr. Caldwell, that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendations to rescind Rule 4123-17-70 Of the Administrative Code, premium discount program plus and replace the rule with new Rule 4123-17-70 Ten Step Business Plan for Safety. The motion consents to the Administrator rescinding and adopting the rule as presented here today. Roll call was taken and the motion passed 11-0.

Motion was made by Mr. Bryan, seconded by Mr. Smith, that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendations to amend the Drug-Free workplace programs rules relating to stacking of discounts for group rating employers. The motion consents to the Administrator amending Rules 4123-17-58, 4123-17-58.1, and 4123-17-64 of the Administrative Code as presented here today.

Many of the directors then commented on the proposed changes. In particular, Mr. Price noted that these changes not only affect employers, but families and communities. While he is comfortable with BWC's commitment to the overall concept of drug-free workplace, it remains a work in progress. Mr. Matesich commented that some employers may choose not to participate without an incentive, but he and other directors indicated they are impressed with BWC's commitment to promoting drug-free workplaces. Mr. Pitts noted one should not lose sight over the overall social purpose of the BWC system. Roll call was taken and the motion passed 11-0.

Mr. Bryan noted that the proposed changes to Rule 4123-17-64.1 (Break-even factor) are being deferred until May because more information is required.

Mr. Price then made the following motion: that the Board request staff to report to the Board prior to the July 2010 Board meeting an analysis of the drug-free workplace

programs and the impact of removing the discount for group rated employers. The motion was seconded by Mr. Hummel.

Mr. Caldwell moved to amend the motion to also include an analysis of the 10 step business plan for safety. This was seconded by Mr. Pitts. Roll call was taken and the amendment was approved 11-0. A second roll call was then taken on the motion, as amended, which was approved 11-0.

AUDIT COMMITTEE

Mr. Haffey presented the Audit Committee report. There was one action item and several presentations. Presentation was made by Joe Patrick, Schneider Downs, with respect to the external audit for year-end 6/30/2009. No significant changes are anticipated. Schneider Downs will begin interim work and testing on May 11, 2009.

Presentation was made by Joe Bell, Chief Audit Executive for the Office of Budget and Management. Mr. Bell announced the BWC internal audit group transition to OBM has been delayed for two years. The IT auditors will transfer to OBM as planned on June 22, 2009. Presentation was made by Tracy Valentino, Chief of Fiscal and Planning, encompassing a more thorough review of the Administrative Cost Fund. Caren Murdock, Director of Internal Audit, gave a presentation on audit processes and also discussed current internal audit activity.

Motion was made by Mr. Haffey, seconded by Mr. Smith to adopt the recommendation of the Audit Committee that the discount rate approved at the March meeting be utilized by the Bureau's external actuarial consultant, Oliver Wyman, and external audit firm, Schneider Downs, for purposes of the reserve for compensation and compensation adjustment expenses as of June 30, 2009. The document "Process for Developing the Reserve Discount Rate Policy" should be amended to reflect this change. Roll call was taken and the motion passed 11-0.

Mr. Bryan noted that in the future, the Audit and Actuarial Committees should coordinate a discussion on reserves.

INVESTMENT COMMITTEE

Mr. Smith presented the Investment Committee report. The portfolio was slightly positive for performance for April 2009, and is down about 5% overall year-to-date. Based on the March 31 portfolio asset mix for the State Insurance Fund, it was necessary to complete a portfolio rebalancing in early April.

Motion was made by Mr. Smith, seconded by Ms. Falls, that the following change be made to the motion approved by the Board in March, as follows: that the Workers' Compensation Board of Directors adopt the recommendation of the Investment Committee of the Board to amend its March 2009 motion regarding the transfer and conversion of the large cap U.S. equity portfolio currently passively managed by Northern Trust for the Disabled Workers' Relief Fund solely for the purpose of permitting

the transfer and conversion of that account to be executed on or before June 30, 2009. Roll call was taken and the motion passed 11-0.

Motion was made by Mr. Smith, seconded by Mr. Caldwell, as follows: that the Workers Compensation Board of Directors adopt the recommendation of the Investment Committee of the Board to amend its March 2009 motion regarding the transfer and conversion of the large cap U.S. Equity portfolio currently passively managed by Northern Trust for the coal Workers Pneumoconiosis Fund, solely for the purpose or permitting the transfer and conversion of that account to be executed on or before June 30, 2009. Roll call was taken and the motion passed 11-0.

Mr. Smith then discussed the Mercer review of asset allocation and increasing the equity component from 20% to 30%. Benchmarks will be changed to reflect increased diversification.

Motion was made by Mr. Smith, seconded by Mr. Harris, that the Workers' Compensation Board of Directors approve and adopt the recommendation of the Investment Committee to revise the Bureau or Workers' Compensation Statement of Investment Policies and Guidelines, as reflected in the red-lined version of the statement incorporated into the minutes of the Board meeting, for the reasons set forth in the memorandum of the Chief Investment Officer dated March 16, 2009, and the Asset Allocation recommendations for the State Insurance Fund prepared by Mercer Investment Consulting.

Ms. Falls noted the following for the record: The new investment policy statement is a comprehensive update and reflects the guidelines of our investment advisors and the BWC investment staff. It also reflects the oversight and input from the Investment Committee and Board. At each and every step of the way, the Investment Committee and Board was educated and engaged in a robust discussion and debate of the importance of risk diversification, risk tolerance, and expected portfolio total returns. The update to the investment policy statement covers all BWC funds, while the asset allocation changes affect only the State Insurance Fund at this time, with a review of all funds to follow.

Mr. Smith further complimented the Chief Investment Officer and staff. Roll call was taken and the motion passed 11-0.

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 increased by \$583 million in March 2009, resulting from changes in the market value of the portfolio. Figures were reviewed in detail. \$80 million of cash has been leveraged for purposes of rebalancing. Claim payments totaled \$161 million along with \$13 million in claim settlements. Another \$18 million payment was made on the

William Green Building bond which will be retired in 2014. Payments from the OHA lawsuit continue to be finalized. The OHA settlement is not involved in claims experience for individual employers, but impacts rates overall because payments are made from the surplus fund.

Reserves decreased \$67 million in FY2009 due to changes in medical inflation assumptions. Any adjustment to reserves will be recorded prior to closing the books in June. This will result in changes to assets and liabilities. Claim payments have decreased by \$70 million.

For FY2009, premium collections are 1% higher than projected but 2% lower than last year. 50/50 plan employers increased 20%. Per a question from Mr. Bryan, Ms. Valentino clarified that the 50/50 program is not required to be offered each reporting period, but has been offered recently due to the current economic climate. The rule merely provides that the Administrator may offer a 50/50 payment program with specified dates. Mr. Haffey requested the 50/50 rule be scheduled for further discussion with Ms. Valentino providing more information.

A discussion was had regarding Attorney General collections. Figures are consistent despite the economy. Administrator Ryan stated that Attorney General Cordray is committed to improvement in collection efforts.

Ms. Valentino noted that cost control measures have resulted in the administrative budget spending being 10% under appropriated amounts. The preliminary 2010 budget will be brought to the Audit Committee in May.

The Board took a brief break at 9:37 AM, reconvening the meeting at 9:47 AM.

STRATEGY DISCUSSION

A presentation was made by Mr. Berno, Board Liaison with regard to establishment of net asset levels. A discussion draft and Power Point presentation are incorporated by reference into the minutes. BWC is charged by statute with maintaining the lowest possible rates together with a solvent state fund.

Deloitte recommendations were discussed along with a chart comparing ten private entities and four states (including Ohio) based on BWC's own calculations from information obtained from Ward's Results – 2008. Ray Mazzotta, Chief Operating Officer, defined net leverage ratio as "premiums plus liabilities, divided by net assets". BWC is highly leveraged with a figure of 8. In the past, this figure has ranged from 2.15 in 2000 to 39.8 in 2003.

An extended discussion was had covering several areas, including what would be the correct net asset level, what range of funding ratio should be targeted to provide for fluctuations, what is the tolerance for deviation, and a funding ratio formula. It was decided that the Audit Committee should take the lead on this topic, and a discussion meeting will be scheduled with attendance by the other Committee Chairs.

Mr. Berno distributed a proposed 2010 meeting calendar. Directors should provide him with any conflicting dates.

ADMINISTRATOR BRIEFING:

Administrator Ryan presented to the Board. The Safety Congress had over 5,000 attendees, 193 vendors, and generated \$204K in revenue which nearly offset all costs. Sessions on new rate programs were well attended.

The Deloitte report was posted on the BWC website the first week in April and stakeholders were notified electronically. No print copies were distributed. Per suggestion from Ms. Falls, Ms. Ryan agreed to post on the website that the Deloitte report consists of recommendations, not finalized policy.

The newly-opened Customer Center provides more convenience and service for injured workers, including private conference rooms. Ms. Ryan encouraged the directors who have not done so to visit the Customer Center.

An RFP has been issued for a two-year contract to provide an intermediary to analyze the reinsurance market. Bids are due today and the contract will be completed by 6/12/09.

Ms. Ryan further discussed recent efforts of the Special Investigation Unit, rollout of the deductible program on 4/22/09, collaboration with the Ohio State University College of Public Health on best practices for pharmacy utilization and management of prescription costs, and newly-formatted brochures which have produced significant cost savings.

Ms. Ryan also announced that directors Caldwell, Haffey, Matesich and Smith have been reappointed to the Board by Governor Strickland.

Workers' Memorial Day is May 9, 2009. BWC will participate in activities. Ms. Ryan reviewed the 2008 fatality statistics.

ADJOURN

Motion was made by Mr. Harris, seconded by Mr. Matesich, to adjourn the meeting at 10:44 am. Roll call was taken and the motion passed 11-0.

April 30 minutes prepared by: Jill Whitworth, Staff Counsel, Legal Division.