BWC Board of Directors

ACTUARIAL COMMITTEE
Thursday, June 17, 2010, 12:05 P.M.
William Green Building
30 West Spring St. 2nd Floor (Mezzanine)
Columbus, Ohio 43215

Members Present:	Charles Bryan, Chair Jim Matesich, Vice Chair David Caldwell James Hummel Thomas Pitts William Lhota, ex officio
Members Absent:	None
Other Directors Present:	Alison Falls, Kenneth Haffey, James Harris, Larry Price, and Bob Smith
Counsel present:	James Barnes, General Counsel
Scribe:	Larry Rhodebeck, Staff Counsel

CALL TO ORDER

Mr. Bryan called the meeting to order at 12:05 p.m. and the roll call was taken. Mr. Lhota reported to the meeting at 12:08 p.m.

MINUTES OF MAY 27, 2010

Mr. Bryan requested that page 2, top paragraph, lines 6-7, be changed to read, " . . . a 3.9% overall rate decrease recommendation . . . . " On page 2, paragraph 4, line 3, he requested striking the comma. On page 3, paragraph 2, line 6, he requested that lines 6-7 be changed to read, "The next question is what the uncapped rate will eventually be." Finally, Mr. Bryan requested that page 6, paragraph 1, line 9, be changed from "miner" to "mine."

Mr. Matesich moved to approve the minutes of May 27, 2010, as amended. Mr. Pitts seconded and the amended minutes were approved by a roll call vote of five ayes and no nays. Mr. Lhota abstained because he was absent from the discussion.

AGENDA

Mr. Caldwell moved to adopt the agenda. Mr. Hummel seconded and the agenda was adopted by a roll call vote of six ayes and no nays.

NEW BUSINESS/ACTION ITEMS

SECOND READING: COAL WORKERS' PNEUMOCONIOSIS FUND, OHIO ADMINISTRATIVE CODE RULE 4123-17-20

Mr. Bryan reminded members that at the May meeting, Deloitte Consulting LLC reported an actuarial indication for the Coal Workers' Pneumoconiosis Fund and two recommendations: Reduce premium rates by 20%, contingent on BWC discontinuing the premium moratorium; if the moratorium is retained, then make no change in the rates. At that meeting, the Actuarial Committee waived the second reading of the rule and recommended retaining the moratorium without change in the rates. At the May Board meeting, the Workers' Compensation Board rejected the recommendation and sent the rule back to the Actuarial Committee with instructions to discuss the issue more completely and develop further information for the directors.

In response to this directive from the Board, John Pedrick, Chief Actuarial Officer, and Elizabeth Bravender, Actuarial Director, presented the rate recommendation and amendment of Ohio Administrative Code Rule 4123-17-20 and provided additional information. Reference was made to an executive summary, "Coal Workers' Pneumoconiosis Fund (CWPF)" and memorandum entitled "Follow-Up Questions and Answers" of June 17, 2010.

Concerning Question 4, Mr. Lhota had asked at the May meeting if the financial information provided in the Deloitte CWPF presentation took into consideration the money provided for the mine safety program and the Ohio Department of Natural Resources permitting program. Mr. Pedrick reported that the $2.9 million transfer is recorded in the financial statements, but is not included in the rate recommendation. The $2.4 million transfer for the permitting program is not included in the financial statements and is also not considered in the rate recommendation. Questions 7—13 of the memorandum also pertain to the CWPF.

Mr. Matesich asked why $2.9 million and $2.4 million transfers were not included in the rate recommendation. Mr. Pedrick replied that they are not considered at this time to be material to the underlying coverage being priced.

BWC is working with Deloitte and others to better understand pneumoconiosis as a risk, and has obtained a data base on pneumoconiosis claims from the United States Department of Labor (DOL). Mr. Pedrick stated that BWC at this time still recommends no change in the rates and continuation of the moratorium.

Mr. Hummel stated he had voted against waiver of the second reading at the May meeting because claims may still arise for old premium payers. Mr. Pedrick responded that BWC is still researching this matter, but BWC believes that premiums paid in the past and investments have grown and resulted in the CWPF assets being much larger than its liabilities.

Mr. Hummel asked if BWC will have answers by June 2011. Ms. Bravender replied that BWC will have more information by then. Mr. Pedrick added that the wish list of information is names of coal miners, social security numbers, years worked in the mines, which mines were worked, and which mines had coverage. BWC will need to reach out to the coal industry to see if this information or similar information can be obtained.

Marsha Ryan, BWC Administrator, added the research will be in two parts. The first is information available from existing sources, and the second is prospective. BWC is in discussion with the College of Medicine of Ohio University to do a medical study to learn of the effects of coal dust. By June 2011, Ohio wants to be the best informed state on pneumoconiosis.

Mr. Smith stated that since West Virginia has more miners with underground exposure, it would have more information. Ms. Ryan replied that while that would be expected, in actuality West Virginia has very little knowledge on the disease.

Mr. Price stated he was still trying to understand the recommendation that there be no change, when Deloitte has recommended a 20% decrease. Mr. Pedrick replied that Deloitte has presented two equally correct options, either of which collects an equal amount of premiums. He stated that he discussed this issue with Jan Lommele, Deloitte Consulting, who agrees with the BWC recommendation to maintain the moratorium is a reasonable option. The recommendation for elimination of the moratorium is derived from the HB100 study, which declared many features to be arbitrary. The Deloitte recommendation, with which BWC staff concurs, will yield $1.552 million in premium per year.

Mr. Price stated it appears that after more research, down the line, BWC will agree with Deloitte and end the moratorium.

Mr. Hummel stated he was concerned with not just solvency, but fairness and equity. Mr. Pedrick stated fairness and equity were his concern too. The moratorium was set for subscribers before 1998, but could have been set differently. Another choice would have been a moratorium on all premiums, but that might be unfair to older employers. The next year of BWC and Deloitte analysis will likely change the rate and the approach to the moratorium.

Mr. Harris remarked that pneumoconiosis affects only miners working underground. In Ohio, one mine operator extracts two-thirds of underground coal. Thus, how many employers are treated unfairly? Mr. Pedrick replied that the CWPF applies only to those insured by the fund and self-insureds would not bring in claims. Ohio has 38 subscribers.

Mr. Smith stated there would still be some exposure for strip mines if they are close to the seam. He asked how mine owners achieve self-insurance. Mr. Pedrick replied they must get permission from the DOL. Ray Mazzotta, Chief Operating Officer, added that although BWC has 38 subscribers, not all are coal mine operators. Some mine gravel, for example, but are exposed to the risk of coal dust.

Mr. Pitts observed that only eleven employers pay, so a 20% decrease would lead to approximately $300,000 in lower premiums.

Mr. Smith stated there was not enough information to remove the moratorium. The Actuarial Committee has deliberated enough for it to act.

Mr. Price stated that he wants it made clear that BWC will develop further information on this area. Mr. Pedrick replied that it is absolutely certain that BWC staff and Deloitte will work further to research black lung and the effect of federal health care reform on the Coal Workers' Pneumoconiosis Fund.

Mr. Lhota stated that, based on information provided, there is still much not known, but also not enough to change the status quo, so he supported the recommendation.

Mr. Hummel supported the recommendation based on the promise to continue research and analysis.

Mr. Bryan stated that there are many issues for Ms. Ryan and staff to research. This issue should be scheduled for a full presentation next year during the annual rate review.

Mr. Pitts moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors consent to the Administrator's recommendation to retain without change Rule 4123-17-20 of the Administrative Code, "Employers' Contribution to the Coal Workers' Pneumoconiosis Fund." This motion consents to the Administrator retaining without change Rule 4123-17-20 as presented here today. Mr. Hummel seconded and the motion was approved by a roll call vote of six ayes and no nays.

<u>SECOND READING, ADMINISTRATIVE COST FUND, OHIO ADMINISTRATIVE CODE RULE 4123-17-36</u>

Ms. Valentino recommended adoption of assessment rates for the Administrative Cost Fund (ACF) and amendment of Ohio Administrative Code Rule 4123-17-36. Reference was made to the report "7/1/10 Administrative Assessments Executive Summary" of June 3, 2010. The ACF assessment covers the operating expenses of the BWC, Industrial Commission and the Workers' Compensation Council. Operating expenses include payroll, rent, supplies, utilities, etc. All employers pay these assessments. Self-Insuring employers are covered in a separate rule. The ACF is a pay-as-you-go fund. BWC uses a cost allocation process using surveys of all departments. Input to the budget is approved by the Workers' Compensation Board. Pages 4-5 of the report give an historic overview and reflect stakeholder input. The ACF is set in accordance with the FY 2011 budget, which is less than the legislative appropriation. The process includes going back to the last complete year, fiscal year 2009, and credits the dollars collected if they are more than the dollars spent. The FY 2009 credit is $48.7 million. Also, by statute, the ACF cannot carry more than $45 million in unencumbered cash at the end of the fiscal year. For the State Insurance Fund employer groups, premiums are the basis for the assessment rate. For self-insuring employers, it is compensation paid to injured workers. The Industrial Commission calculates its rates in a similar fashion. BWC calculated the rate for the Workers' Compensation Council. The pending legislation to defund the Workers' Compensation Council has not yet passed. If it passes, the rule can be adjusted. This assessment is not collected until January 1, 2011.

Mr. Matesich moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-17-36 of the Administrative Code, "Administrative Cost Fund Assessments." The motion consents to the Administrator amending the rule as presented here today. Mr. Pitts seconded and the motion was approved by a roll call vote of six ayes and no nays.

<u>SECOND READING, SAFETY AND HYGIENE, OHIO ADMINISTRATIVE CODE RULE 4123-17-37</u>

Ms. Valentino recommended amendment of Ohio Administrative Code Rule 4123-17-37 regarding assessments for the Safety and Hygiene Fund. Reference was made to a report entitled, "Executive Summary, Public Employer State Safety and Hygiene Rate" of May 17, 2010. The Safety and Hygiene assessment is similar to the ACF in that it supports the Safety and Hygiene Division. There is no break-out of rates by employer types because the assessment is a set-aside of premiums by statute. BWC has looked at usage over the years and recommended a reduction of the rate for public employer state agencies. The fund continues to have a large cash balance and will not reduce services.

Mr. Hummel asked if the upper limit is 1% and Ms. Valentino confirmed it was.

Mr. Hummel moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-17-37 of the Administrative Code, "Safety and Hygiene Assessments." The motion consents to the Administrator amending the rule as presented here today. Mr. Matesich seconded and motion was approved by a roll call vote of six ayes and no nays.

SECOND READING, SELF-INSURED ASSESSMENTS, OHIO ADMINISTRATIVE CODE RULE 4123-17-32

Mr. Pedrick, Ms. Bravender, and Terrence Potts, Actuarial Operations Rates Supervisor, recommended adoption of the self-insured assessment rates and amendment of Ohio Administrative Code Rule 4123-17-32. Reference was made to the report entitled, "Executive Summary, Self-Insured Employers Assessments" of May 28, 2010. Mr. Potts reported that BWC had amended the rule since May by deleting "and" from paragraph H. There are 1,194 SI employers paying seven assessments. The four mandatory assessments are the mandatory surplus fund assessment which is used primarily for payment of pre-1987 bankrupt claims; the Self-Insuring Employers Guaranty Fund assessment which is used primarily for the payment of post-1986 bankrupt claims, the Safety and Hygiene assessment and; the administrative cost assessment for self-insurers. The three optional assessments are for rehabilitation cost reimbursement, which has three remaining participants; the handicap reimbursement fund, for which there are no remaining participants; and the disallowed claims reimbursement fund, of which there are 519 participants.

Mr. Bryan asked if an employer opts-out of the denied claims reimbursement and a claim is disallowed, is it a write-off for the employer. Mr. Potts replied that clearly the employer cannot be paid by BWC. Mr. Pitts added that the employer may collect the overpayment from future benefits. He further asked if the claim must be entirely denied or partially so. Tina Kielmeyer, Chief of Customer Service, replied that it may be the entire claim or partial allowance when overturned.

Mr. Potts further reported that page 5 shows the changes. The surplus fund mandatory assessment is reduced by 0.0635, from 0.0935 to 0.03, because of increases in surety collections and a decrease in claims expense for claims prior to 1987. The Guaranty Fund increase was for the same reason: claims after 1986 increased in costs. This was expected over time. There is also no decrease in the

ACF assessment. There are no changes in the rehabilitation or handicap optional assessments. There is an increase to the optional claim reimbursement program to .0396.

Mr. Bryan commented that once an employer is bankrupt and cannot pay, the mandatory funds are post-assessments funds. Mr. Pedrick replied that the Guaranty Fund is a post-assessment fund in most aspects. For the Guaranty Fund, the rule requires a balance of 125% of the previous year's payments be on hand. Payments cover the obligations of employers that have not only declared bankruptcy, but have defaulted on their claim payments as well.

Mr. Bryan asked whether there is a problem with impending large bankruptcies, which would lead to higher assessments. Is the current approach required by statute? Mr. Pedrick replied the statute requires that the funds be pay-as-you-go.

Mr. Hummel asked whether all optional funds have always been optional. Mr. Potts replied that rehabilitation became optional in 1993. The handicap reimbursement assessment became optional in 1986. The disallowed claims reimbursement became available in 2005.

Mr. Hummel asked if the assessments could be abolished if no employers participate. Mr. Potts replied no, because if a new self-insured employer chooses to stay in a program and not opt-out, then something must be collected to pay the claim reimbursements. Mr. Pedrick added that an opt-out is permanent.

Mr. Harris noted that it appears that self-insurers are not paying the Safety and Hygiene assessment. Mr. Potts replied that the rate is .005 of paid compensation. The rate is in the chart on page 5 of the Board materials under the Self-Insured tab and also in the rule.

Mr. Matesich moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-17-32 of the Administrative Code, "Self-Insured Employer Assessments." The motion consents to the Administrator amending the rule as presented here today. Mr. Hummel seconded and the motion was approved by a roll call vote of six ayes and no nays.

SECOND READING, PUBLIC EMPLOYER TAXING DISTRICTS CREDIBILITY TABLE EFFECTIVE JANUARY 1, 2011, & PUBLIC EMPLOYER TAXING DISTRICTS GROUP BREAK-EVEN FACTOR, OHIO ADMINISTRATIVE CODE RULES 4123-17-33.1 & 4123-17-64.2

Mr. Pedrick recommended adopting the public employer taxing districts credibility table effective January 1, 2011, and public employer taxing districts group break-even factor, Ohio Administrative Code Rules 4123-17-33.1 & 4123-17-64.2. The report included reference to "Executive Summary, Public Employer Taxing Districts," of May 14, 2010; and "Executive Summary, Public Employer Break-Even Factor," of May 14, 2010. The changes set the credibility equal to that used for private employers. In response to a question from Mr. Bryan, Mr. Pedrick explained the credibility table answers the question of how reliable is an employer's experience. For example, if during 4 of the past 5 years, an employer has 50% lower claims than average, how much of that experience should be reflected in the rate. In this case, it would be no more than 65% of the 50%. Experience rating is not a method to penalize or reward for claim activity, but a factor in predicting future rates. Historically, the BWC credibility tables were too high. Beginning in 2005, BWC recognized the need to reduce credibility levels and reduced the maximum credibility to 93% for the 2006 policy year, based on an actuarial study from an outside consultant. For the 2007 policy year, the maximum credibility was reduced to 90%. Since then we have followed a plan to reduce credibility further and to move toward the appropriate levels needed under a split experience plan.

Mr. Bryan asked should the credibility factor for public employers be similar to the one for private employers. Mr. Pedrick replied that for the upcoming policy year they should be the same. The proposed change is to make 65% the maximum credibility and include three new levels for employers with lower expected losses. The break-even factor is in a stratified table that has lower amounts than those currently in place. A change in the credibility table by itself would lead to more premium from all employers, so BWC must reduce premium rates for non-group employers by reducing the off-balance and must further reduce group rated employers' rate levels by changing the break-even factors.

Mr. Smith asked how this affected rates. Mr. Pedrick replied will add to rate stability. If BWC does nothing, there is still substantial instability in rates. The personal experience of an employer and group exiting are two events that sharply change rates.

Mr. Pedrick continued that, because of the sponsor marketing rules, BWC asks the board to pass the credibility and break-even factors today, even though they will not go into effect until January 1, 2011. Sponsors need this rule to begin their marketing. Reducing the maximum credibility today to 65% is the second major step since we set forth the plan to reform our rate setting methods in 2008. The next major step will be split experience rating.

Mr. Pitts moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendations to amend Rule 4123-17-33.1 of the Administrative Code, "Public Employer Taxing District Credibility Table Used for Experience Rating," and to amend Rule 4123-17-64.2 of the Administrative Code, "Public employer Taxing District Group Rating Break-Even Factor." The motion consents to the Administrator adopting the rules as presented here today. Mr. Matesich seconded and the motion was approved by a roll call vote of six ayes and no nays.

SECOND READING, DEDUCTIBLE PROGRAM RULE, OHIO ADMINISTRATIVE CODE RULE 4123-17-72

Mr. Pedrick requested a change to the deductible program and amendment of Ohio Administrative Code Rule 4123-17-72. The presentation included references to "Executive Summary, Deductible Program Rule Changes," of May 26, 2010. After including public employers in the program, BWC discovered a pricing error and recommended removal of a table of deductible credits. The removed table will be replaced by a correct table to be presented at either the July or August meetings. In July and August, Deloitte Consulting and BWC will return to the Workers' Compensation Board with other changes and correct the pricing. The error in the table meant that if an employer had $2 million in premiums it could receive a 47% premium reduction of $940,000, but only face a $600,000 maximum potential obligation under the deductible. The amendment removes only Table F. After the July changes, BWC can implement a revised deductible program in September and employers can select programs in January.

Mr. Caldwell moved that the Actuarial Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-17-72 of the Administrative Code, "Deductible Rule." The motion consents to the Administrator amending Rule 4123-17-72 as presented here today. Mr. Hummel seconded and the motion was approved by a roll call vote of six ayes and no nays.

FIRST READING

Mr. Bryan reported that there were no proposals for a first reading. Accordingly, there would be no second readings in July.

DISCUSSION ITEMS

RATE REFORM

Mr. Pedrick reported that BWC had done a rate comparison last year. This year, BWC has taken the fifty largest classifications with 77% of Ohio payroll. The Oregon study is often used as a measure of competitiveness, but the distribution of business by class is considerably different than the distribution in Ohio. For example, logging is a major industry in Oregon but not in Ohio. BWC has borrowed some of Oregon's methodology for making rate comparisons and applied it to industry classes prevalent in Ohio.

Mr. Hummel asked if benefit levels are included in the study. Mr. Pedrick replied benefits levels would be implicitly included because with high losses, rates tend to be higher. However, utilization of benefits also varies by state and affects the rates changed. Therefore, there is no comparison of benefits in these rate comparisons.

Also, expenses such as commissions and taxes are included in private insurers' rates. Ohio pays out 96% of premium dollars in benefits. Other states, for example, will often pay about 10% in premiums for agent commissions.

Mr. Hummel asked if he could assume that Oklahoma does not pay twice the rate of Ohio benefits even if its rates are twice those of Ohio. Mr. Mazzotta agreed this was the case.

Mr. Bryan emphasized these rate comparisons are not an approach to benefits evaluation, but instead are a comparison of employer costs with whatever benefits are in the state. These rates reflect many factors including varying benefit levels but they are not an attempt to compare benefit levels but instead take the benefit levels as a given and then compare employer costs.

Mr. Caldwell asked why there were only 42 states in the BWC study. Mr. Pedrick replied these were the only states where data is currently available.

Mr. Smith asked if the study measures benefits and utilization. Mr. Pedrick replied that utilization is very hard to measure. For one thing, health care law prevents research of medical records.

Mr. Smith added that the Audit Committee had discussed utilization.

Mr. Pedrick reported that study uses payroll rates for the classes. In 2009, Ohio ranked 17th of 42 states on the competitive comparison. In 2010, it is 20th, which is a substantial improvement. The 2007 Oregon study showed Ohio to be the third most expensive state of those states measured.

Mr. Bryan stated there should be a decision here on how best to use information that is publicly available. He stated because of the complexity of workers' compensation, and the uniqueness of each state, these comparisons are difficult to develop. However, these competitive comparisons are critical in helping the Board to evaluate the progress the BWC is making in one of its primary objectives of making Ohio more competitive with other states in the area of workers' compensation rates. He applauded staff for their efforts to date and said there would be additional work done on these comparisons with further improvement expected in the future.

LEGISLATIVE DISCUSSION AND ANALYSIS

There was no discussion of pending legislation.

CHIEF ACTUARY REPORT

Mr. Pedrick reported that his CAO report includes additional answers to questions from the May meeting. For next year, BWC will examine the details of the calculation of the base rates and pinpoint ways in which rate stability can be minimized while still making rates responsive to experience. Some approached to data for rates is required by statute, such as including the oldest four of the previous five years in experience rating. Other data is derived from actuarial science, such as credibility methods. All factors will be under a microscope to bring greater stability and accuracy. The CAO report also marks progress on various projects. BWC will add public employer rate-making and other issues in 2011.

Mr. Bryan requested correction of the dates on the tables on page 2 to July 1, 2010, not 2011.

COMMITTEE CALENDAR

Mr. Hummel emphasized the next meeting of the Actuarial Committee will be Monday, July 26 from 9 a.m. to 11 a.m.

Mr. Bryan asked for additions to the calendar and hearing none, made no changes.

EXECUTIVE SESSION

There was no executive session or litigation update.

ADJOURNMENT

Mr. Hummel moved to adjourn. Mr. Matesich seconded and Mr. Bryan adjourned the meeting after a unanimous roll call vote.

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June 24, 2010